MARYLAND HEALTH CARE COMMISSION
4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

MEMORANDUM

TO: Commissioners

FROM: Robert E. Nicolay, Chairman
CON Task Force

DATE: December 12, 2005

RE: Public Comments Received on the CON Task Force Report

Background

At the November 22, 2005 meeting, I briefed the Commission on the findings and recommendations of the CON Task Force. (Appendix A to this memorandum provides a summary of the CON Task Force recommendations. Copies of the full Task Force report were included in the mailout package for the November 22, 2005 meeting.) Following the November meeting, the Task Force report was posted on the Commission's website for public comment. The public comment period closed on Friday, December 9, 2005.

Summary of Public Comments

In response to the request for public comment on the CON Task Force Report and recommendations, comments were received from 38 organizations. (Appendix B provides the full text of public comments received on the Task Force Report.) A range of organizations submitted comments, including hospitals, home health agencies, hospice agencies, and industry professional associations. Table 1 lists the organizations submitting comments to the Commission. The comments were generally supportive of the Task Force's recommendations for streamlining the CON review process, increasing the capital review threshold[1], and updating the State Health Plan. The largest number of comments received addressed the recommendation to deregulate home health agencies from the CON program. A total of 24 organizations commented on that recommendation, with 21 opposing and three supporting the recommendation to deregulate home health agencies from CON review. There were also a number of comments received in support of the recommendation to maintain CON regulation of hospice programs.

[1] Appendix C provides data on CON project review activity but capital expenditure level.

Table 1: Organizations Comments on the CON Task Force Report

Acucare Health Strategies, Inc.
Adventist HealthCare
Anne Arundel County Department of Health
Brown Advisory
Calvert Hospice (2)
Calvert Memorial Hospital
Carroll Home Care/Carroll Hospice
Chesapeake-Potomac Home Health Agency, Inc.
Chester River Home Care and Hospice
Civista Medical Center
Coastal Hospice (2)
Family and Children's Services of Central Maryland (2)
Frederick Memorial Hospital Home Health Services
Garrett County Health Department
Gentiva Health Services
Health Services Cost Review Commission
Holy Cross Home Care
Holy Cross Hospice
Holy Cross Hospital
HomeCall
Hospice Network of Maryland
Hospice of Queen Anne's
Johns Hopkins Home Care Group
Johns Hopkins Medicine
LifeBridge Health
Maryland Hospital Association
Maryland National Capital Homecare Association
MedStar Health
MedStar Health Visiting Nurse Association
Montgomery Hospice
Shore Home Care
Shore Home Care Hospice
St. Agnes Hospice
St. Agnes Hospital
St. Mary's Hospital
Suburban Hospital Healthcare System
VNA Home Health of Maryland
Washington County Health System

APPENDIX A
Summary of CON Task Force Recommendations

- **Summary of CON Task Force Recommendations and Type Recommended Change Required for Implementation: Scope of Coverage, State Health Plan, and CON Review Process**

Recommendation	Statutory Change	Regulatory Change	Administrative Change
SCOPE OF CON COVERAGE			
1. Increase the capital expenditure review threshold from $1.25 to $10.0 million for hospitals regulated by HSCRC; and, from $1.25 to $5.0 million for all other facilities.	§19-120	COMAR 10.24.01	
2. The Task Force recommends the following changes:			
• Remove requirement for public informational hearing for hospital closures in jurisdictions with more than two hospitals; remove requirement to obtain an exemption from CON review for hospital closures in jurisdictions with fewer than three hospitals	§19-120(l)(1)(ii) §19-120(l)(2)(i)	COMAR 10.24.01	
• Expand the existing business office equipment exemption to include health information technology/medical information systems		COMAR 10.24.01	
• Remove home health agency from the definition of "health care facility" or, alternatively, eliminate from the State Health Plan the home health agency need methodology and/or projections.	§19-114(d); §19-120(j)(2)(iii)3	COMAR 10.24.01; COMAR 10.24.08	
3. Develop streamlined ("Fast Track") CON review process for hospital renovation and new construction projects with no new services or for which the hospital agrees not to file a partial rate application for capital.		COMAR 10.24.01; COMAR 10.24.10	
4. The Task Force recommends the issuance of a Staff Report so that the Commission can act on the application within 90 days of docketing for projects with no opposition from interested parties. Staff should report to the Commission on the status of all projects where a Staff		COMAR 10.24.01	

Recommendation	Statutory Change	Regulatory Change	Administrative Change
Report is not issued for Commission action within 90 days of docketing.			
5. Revise Determination of Non-Coverage requirements for hospitals taking the "pledge" not to increase rates to deem the request approved if not acted upon by the Commission within 60 days	§19-120(k)(5)(viii)	COMAR 10.24.01	
STATE HEALTH PLAN			
1. Because of its importance in guiding the CON review process, the Task Force recommends that the Commission undertake a comprehensive revision of the State Health Plan. The update and revision of the State Health Plan should involve broadly representative technical advisory groups, including consumers and representatives of interested public and private organizations, to obtain expertise on factors influencing the availability, access, cost, and quality of services. The review of each chapter of the State Health Plan should: • Eliminate obsolete and duplicative CON review standards; • Streamline documentation requirements; • Identify those types of projects eligible for review based on a limited set of standards; and • Be consistent with the guiding principles.		COMAR 10.24.07-12; 10.24.14-15; 10.24.17-18	
2. In updating the State Health Plan, priority should be given to revision of the Acute Inpatient Services and Ambulatory Surgical Services chapters: ***Acute Inpatient Services (COMAR 10.24.10)*** • The revision of the Acute Inpatient Services chapter of the State Health Plan should eliminate or substantially modify the following standards to the extent that they are obsolete and redundant, including: .06A(2) Utilization Review Control Programs; .06A(3) Travel Time; .06A(4) Information Regarding Charges; .06A(5) Charity Care Policy; .06A(6)		COMAR 10.24.10	Form technical advisory group

Recommendation	Statutory Change	Regulatory Change	Administrative Change
Compliance with Quality Standards; .06A(7) Transfer and Referral Agreements; .06A(8) Outpatient Services; .06A(9) Interpreters; .06A(10) In-Service Education; .06A(11) Overnight Accommodations; .06A(12)Required Social Services; .06A(19) Minimum Size for Pediatric Unit; .06A(20) Admission to Non-Pediatric Beds; .06A(21) Required Services When Providing Critical Care; .06A(22)Average Length of Stay for Critical Care Units; .06A(23) Waiver of Standards for Proposals Responding to the Needs of AIDS Patients; .06B(1) Compliance with System Standards; .06B(2)(a) Duplication of Services and Adverse Impact; .06B(4) Burden of Proof Regarding Need; .06B(5)Discussion with Other Providers; .06B(9) Maximum Square Footage; .06C(2) Compliance with System Standards; .06C(3) Conditions for Approval; and, .06C(5) Maximum Square Footage-Renovations. The Task Force recommends that Commission staff move expeditiously to draft proposed regulations eliminating those standards that it agrees are obsolete or redundant and that remaining issues regarding the State Health Plan standards be considered by a technical advisory group. • The revision should add policies to the Acute Inpatient Services Chapter of the State Health Plan addressing shell space. The policies should permit the development of shell space provided that the hospital does not seek a rate adjustment while the space is unused. In order to fit out and finish the shell space for patient care, CON approval should be required if such fit out and finishing constitutes a project subject to CON review and approval. ***Ambulatory Surgical Services (COMAR 10.24.11)*** • The Ambulatory Surgical Services Chapter should better define the terms "operating room" and "procedure room" to clarify what is permitted in a CON-exempt facility with a single operating room.		COMAR 10.24.12	Form technical advisory group

Recommendation	Statutory Change	Regulatory Change	Administrative Change
3. The Task Force recommends that the Commission study alternatives to eliminate the inconsistency between the 140% rule for establishing licensed acute care bed capacity and the State Health Plan occupancy assumptions. A technical advisory group should be formed by the Commission with representatives from the Maryland Hospital Association, major payers, and other interested organizations.			Form technical advisory group
CERTIFICATE OF NEED REVIEW PROCESS 1. The review process should be restructured to require two conferences as a standard feature of the review of any CON application: *Application Review Conference(ARC)* • The format of this conference should be a walk-through of the application and its appendices with staff providing the applicant with its views on the completeness of each question or information requirement outlined in the application; • The conference will serve to formulate the written completeness review questions with input from both staff and the applicant; and • Because of the conference, the completeness questions, prepared by staff and given to the applicant within a reasonably short period after the ARC, will be fewer and limited to more substantive issues which could not be fully addressed at the conference or which require development of information or		COMAR 10.24.01	

Recommendation	Statutory Change	Regulatory Change	Administrative Change
analyses by the applicant; and better understood by the applicant because of the applicant's participation in framing the questions at the ARC. *Project Status Conference(PSC)* • A Project Status Conference will be held to address those standards and review criteria which present a problem for approval of the project. Prior to this meeting, the Reviewer or staff will send a memorandum to the applicant and interested parties outlining the areas of concern so that the applicant can have appropriate persons attend the PSC. • The PSC will be structured to allow the applicant and interested parties to ask questions about the status of the project and provide comment regarding the identified issues; • A written summary of the PSC will be prepared for the record, along with a statement of applicant revisions to the Summary, if desired by the applicant; • Following the PSC, the applicant will have an appropriate period of time to make changes, if desired, to the project, which cure the problems or deficiencies identified at the PSC, without the requirement for re-docketing. Each interested party will have a 10 day period in which to file comments on changes to the project. 2. The Task Force recommends modifying the review process by allowing for changes in a project, addressed in the PSC, that bring it in closer conformance with the State Health Plan, based on staff or the Reviewer's analysis, without penalizing such changes by adding more process or time to the review through redocketing. 3. The Task Force recommends that hospitals be permitted to construct shell space so long as no rate adjustment associated with the capital cost of the shell space is sought by the hospital while the space remains vacant.		COMAR 10.24.01	

Recommendation	Statutory Change	Regulatory Change	Administrative Change
4. The Task Force recommends developing an automated CON application form; requiring PDF files of CON application documents; developing a standard form for filing requests for Determinations of Non-Coverage; providing website access to CON filings.		COMAR 10.24.01	Prepare automated application forms for CON review and Determinations of Non-Coverage; design CON website; revise CON database.

• Summary of Issues Reviewed by the CON Task Force With No Change Recommended at This Time

Issues Reviewed	No Change Recommended at this Time
Scope of CON Coverage	• Open Heart Surgery Services • Neonatal Intensive Care Unit Services • Organ Transplant Surgery Services • Burn Care Services • Hospice Services • Obstetric Services
State Health Plan	• Scope of the State Health Plan
CON Review Process	• Qualification of Interested Parties • CON Review Schedule

Appendix B

Maryland Health Care Commission
Organizations Submitting Comments on the Report of the CON Task Force

Acucare Health Strategies, Inc.
Adventist HealthCare
Anne Arundel County Department of Health
Brown Advisory
Calvert Hospice (2)
Calvert Memorial Hospital
Carroll Home Care/Carroll Hospice
Chesapeake-Potomac Home Health Agency, Inc.
Chester River Home Care and Hospice
Civista Medical Center
Coastal Hospice (2)
Family and Children's Services of Central Maryland (2)
Frederick Memorial Hospital Home Health Services
Garrett County Health Department
Gentiva Health Services
Health Services Cost Review Commission
Holy Cross Home Care
Holy Cross Hospice
Holy Cross Hospital
HomeCall
Hospice Network of Maryland
Hospice of Queen Anne's
Johns Hopkins Home Care Group
Johns Hopkins Medicine
LifeBridge Health
Maryland Hospital Association
Maryland National Capital Homecare Association
MedStar Health
MedStar Health Visiting Nurse Association
Montgomery Hospice
Shore Home Care
Shore Home Care Hospice
St. Agnes Hospice
St. Agnes Hospital
St. Mary's Hospital
Suburban Hospital Healthcare System
VNA Home Health of Maryland
Washington County Health System

As of 12/12/05

Pam Barclay

From: Peter Chaalan [pchaalan@acucaregroup.com]
Sent: Friday, December 09, 2005 11:15 AM
To: pbarclay@mhcc.state.md.us
Subject: Home Health CON Issue

Dear Ms. Barclay,

Realizing the home health CON issue has been debated for as long as I can remember, please allow me to voice my opinion as a Virginia neighbor and as a Home health executive who has run home health companies all across the country. Simply put, it is in the financial best interest of the current MD home care providers to oppose any deregulation. It is however my opinion that it is in the patients' and the community's best interest to support such deregulation.

Deregulation will allow competitors into the MD market, increasing competition and driving patient's choice. I do not buy the shortage in staffing argument, since people leave their managers not their jobs. Nurses want to be respected, and treated with appreciation and dignity. More choice in employers means better opportunity and better retention of skilled staff. Since all home care providers are either licensed by the State, Medicare certified, or CHAP or JCAHO accredited, the argument that quality suffers is nothing more then an excuse. The State licensure, the accreditation, and the Medicare certification have set a quality care benchmark for all providers to meet.

Florida and Texas are great examples of a thriving home health industry, providing superb patient care, employment opportunities, return on investment, and revenues to the local communities. I urge you to repeal the home health CON.

Thank you for allowing me to contribute the above comments.

Best regards,

Peter Chaalan
President and CEO
Acucare Health Strategies, Inc.
(703) 435-8304 Ext. 121
(703) 435-8324 Fax
www.acucaregroup.com

Adventist HealthCare

William G. "Bill" Robertson
President and CEO

Washington Adventist Hospital
Shady Grove Adventist Hospital
Hackettstown Community Hospital
Kessler-Adventist Rehabilitation Hospital
Potomac Ridge Behavioral Health System
Greater Washington Sleep Disorders Centers
Adventist Senior Living Services
Adventist Home Health

VIA FEDERAL EXPRESS

December 6, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Chairman Salamon:

I am writing to provide support and comments on the recommendations of the Maryland Health Care Commission's Certificate of Need (CON) Task Force. Favorable action is urged on the recommendations by the MHCC.

As you may know, Adventist HealthCare is one of the largest employers and health systems in Maryland. We have been working to meet the health care needs of the communities we serve for nearly 100 years and are committed to fulfilling our mission of delivering excellent health care through a ministry of physical, mental and spiritual healing. With more than 6,000 employees, Adventist HealthCare operates acute care hospitals, specialty hospitals, senior care services, home care services, outpatient clinics and other health care services.

In general, Adventist HealthCare believes the overarching goal of the CON program should be to enhance access to necessary health care services for all Maryland residents. As such, the program should be flexible for unique situations in individual communities, should render comment and decisions in a timely manner, and should simplify the application and approval process.

Adventist HealthCare is in favor of the following recommendations proposed by the CON Task Force:

1. Increasing the statutory capital expenditure threshold to $10 million for hospitals and $5 million for other regulated facilities.
2. Expanding the existing business office equipment exemption to include health information technology/medical information systems.
3. Developing a streamlined ("Fast Track") CON review process for hospital renovation and new construction projects that do not add new services or beds and do not require a partial rate review. This includes issuing a staff report within 60 days and the commission's decision within 90 days, or the project is deemed approved.
4. Revising "Determination of Non Coverage" requirements for hospitals taking the "pledge" not to increase rates to deem the request approved if not acted upon by the commission within 60 days.

1801 Research Boulevard, Suite 400 • Rockville, MD 20850 • (301) 315-3538 • (301) 649-1385 TTY • Fax (301) 315-3011 • www.adventisthealthcare.com • wroberts@ahm.com

5. Removing the requirement for public informational hearings for hospital closures in jurisdictions with more than two hospitals; removing the requirement to obtain an exemption from CON review for hospital closures in jurisdictions with fewer than three hospitals.
6. Conducting a comprehensive review and update of the State Health Plan to eliminate redundant standards, update other standards, and add policies that allow for shell space.
7. Streamlining documentation requirements for the State Health Plan.
8. Modifying the completeness review and project review process by requiring two conferences as a standard feature of the review of any CON application.
9. Modifying the review process by allowing for changes in a project addressed in the project status conference, that bring it in closer conformance with the State Health Plan, based on staff or the Reviewer's analysis, without penalizing such changes by adding more process or time to the review.
10. Developing an automated CON application form; requiring a PDF of the CON application document; developing a standard form for filing requests for "Determinations of Non Coverage"; and providing Web site access to CON filings.

We also urge that definitive conclusions be reached on how to reconcile the 140 percent rule as mandated by law with the Maryland Health Care Commission's bed projection methodologies. We believe this is a very important issue deserving of immediate discussion and resolution. We recommend that the Maryland Health Care Commission adjust their bed need methodologies to be consistent with the 140 percent rule. We understand that a Technical Advisory Group is being established to conduct a comprehensive review of the State Health Plan. We would like to offer our participation on the Technical Advisory Group.

In addition to the above, Adventist HealthCare submitted written comments in June which included the following recommendations we believe still should be evaluated as a part of this CON review process:

1. Tighten Criteria To Qualify As Interested Parties:
   The current rules for filing as an interested party in a CON review are too lenient. As a result, projects get bogged down by opposing parties that are not materially affected but who may have an interest in negatively impacting that filing party. Interested party filings should be limited to those who can demonstrate a material impact from the project under review.
2. Require Site Visits On All Major Projects:
   We believe a decision is best rendered on major projects when the decision-makers visit the location of the proposed project. This provides an added perspective and context not always apparent on paper. Maryland is a diverse state geographically and demographically, and what may be appropriate in one jurisdiction may not be appropriate in another. A better decision is rendered when additional context is provided to the formal application.

3. Require Local Hearings On All Contested Projects:
   We believe the Commission should be required to conduct local hearings on all contested projects to ensure appropriate context is provided for these decisions. Those most impacted by a given service are those who live in the community being served. As a result, decision-makers should proactively seek the input of the community through a local hearing. Currently, it is too difficult for those who live in the community of a given service under review to render opinion in an effective manner. When public hearings are held, they are most often held in Baltimore which creates a travel hardship for local residents. Often, the only realistic opportunity for a local resident to give public comment is by letter, which limits the effectiveness of the opinion.

I am available to answer any questions you may have.

Thank you for your leadership of this important task and for the opportunity to provide comment.

Sincerely,

William G. "Bill" Robertson
President and CEO

Janet S. Owens
County Executive

ANNE ARUNDEL COUNTY
MARYLAND

Frances B. Phillips
Health Officer

December 9, 2005

Ms. Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Ave.
Baltimore, MD 21215

Dear Ms. Barclay:

We appreciate the opportunity to review and comment on the *Report of the Certificate of Need Task Force*, which was distributed at the November 22, 2005 Commission meeting. Task Force members and Commission staff clearly spent a significant amount of time reviewing current regulations and processes to arrive at the Task Force's recommendations. The recommendations are important steps in streamlining, simplifying, and accelerating the Certificate of Need process.

Over the last year, my staff and I have worked with the two hospitals in Anne Arundel County on their plans to expand service capacity. Whether a hospital's goal is to expand existing services or to introduce new ones, from a public health perspective, our focus is on access to care for underserved populations and improved health outcomes. We were pleased that the Commission approved these projects. We were especially gratified that the reviewer's recommendations for Baltimore Washington Medical Center's Obstetrics Unit included a condition requiring the hospital to demonstrate annually that it has achieved its community benefit goals.

As you know, community benefit plans are required by the HSCRC as part of the rate-setting process; and both the State Health Plan and the HSCRC require charity care policies. However, it is unclear to us how these assurances to serve at-risk populations are monitored on an ongoing basis. The BWMC Obstetrics Unit recommendations are the first time we have seen specific conditions related to community health status as a part of a CON approval. How will the Commission monitor these conditions and what assistance will the Commission provide if the facility has difficulty meeting the objectives? We ask because as partners of both hospitals, we will be working with them on improving health status in communities throughout Anne Arundel County.

We applaud you on your progress toward improving the Certificate of Need process. One suggestion we would offer would be to include community benefits requirements, such as outreach and improved health care access, in all chapters of the State Health Plan.

As regulators recognize and incorporate public health principles into oversight of the health care delivery system, Maryland's increasingly diverse population will be better served.

Sincerely,

Frances B. Phillips, R.N., M.H.A.
Health Officer

cc: Stephen J. Salamon, Chairman, Md. Health Care Commission
Rex W. Cowdry, Executive Director, Md. Health Care Commission
James R. Walker, President and CEO, Baltimore Washington Medical Center
Martin L. Doordan, President and CEO, Anne Arundel Medical Center

Geoffrey R. B. Carey, CFA
Partner

BROWN ADVISORY

Phone (410) 537-5415
Fax (410) 537-6415
gcarey@brownadvisory.com

December 9, 2005

Rex W. Cowdry, M.D., Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: Skilled Home Health Care Requirements

Dear Dr. Cowdry:

I am a long-time board member of Family and Children's Services of Central Maryland. I am writing to urge the Maryland Health Care Commission to remove the requirement that skilled home health care agencies obtain a Certificate of Need as a part of the licensure process. The current requirement established as part of the Maryland Health Care Commission's Five Year Plan seriously disadvantages non-profit organizations seeking to bring these services to lower income families.

For almost seventy years, we have provided services to the elderly and disabled designed to maintain these populations in the community. These services are offered through contracts with local departments of aging and departments of social services, and through sliding fee scale charges to private pay clients. Through this program, we maintain over 600 older adults in the community each year. The majority of these clients have chronic conditions that range from complete immobility to individuals who need housekeeping services only. As a rule, a care plan contains a mixture of personal care, light housekeeping, errands and perhaps meal preparation. Elder Services employs registered nurses to conduct assessments of clients, develop customized care plans, monitor clients every 60 days, as well as provide on-site supervision of the Certified Nursing Assistants.

Current Maryland regulations do not allow us to qualify as a skilled home care provider because no new Certificates of Need are being issued despite overwhelming evidence demographically of growing elderly/disabled populations needing these services. We hope that you will decide to increase the availability of skilled services to the elderly/disabled by removal of the Certificate of Need requirement.

Thank you for your help in this matter.

Sincerely,

Calvert Hospice

Life, healing, hope.

December 8, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: Maryland Health Care Commission - Request For Public Comment – Report of the Certificate Of Need Task Force

Dear Ms. Barclay:

Calvert Hospice would like to add its voice to those of every hospice in the State of Maryland urging the Maryland Health Care Commission to adopt the recommendation of the Certificate of Need Task Force to retain CON regulation for hospice. This is the right decision, made by stakeholders convened by the Commission to accomplish the important task of reviewing, among other things, the appropriateness of retaining CON for various medical services.

The Task Force spent more time on hospice regulation than on any other single issue the group considered. The notion of how hospice fits into a regulatory scheme that, most narrowly, looks at bricks and mortar was subject to a great deal of thought and consideration. As the Task Force came to agree upon a set of objectives for CON regulation that focus on the public interest, the arguments advanced by the Hospice Network, among others, in support of retaining CON regulation for hospice clearly became the more compelling for the vast majority of the Task Force members. The Task Force's overwhelming support of retaining CON for hospice was obvious in its straw poll.

As the Task Force's recommendation to retain CON for hospice is consistent with both the MHCC staff 2000 report on CON and the legislature's 2003 passage of SB 732 re-asserting the importance of CON, Calvert Hospice urges the Maryland Health Care Commission to accept the determination of its Task Force and to retain Certificate of Need for hospice.

Sincerely,

Lynn Bonde
Executive Director
Certificate of Need Task Force Member

P.O. Box 838 • 238 Merrimac Court Prince • Frederick, MD 20678
(410) 535-0892, (301) 855-1226 • (410) 535-5377 (fax) • 1-800-735-2258 for the hearing impaired
www.calverthospice.org

Calvert Hospice

Life, healing, hope.

December 9, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: Maryland Health Care Commission - Request For Public Comment – Report of the Certificate Of Need Task Force – **Home Health Services**

Dear Ms. Barclay:

It has come to my attention that the Maryland National Capital Homecare Association (MNCHA) has clarified its position on the Task Force's recommendation to deregulate home care and requests, as an industry, that the Maryland Health Care Commission retain CON regulation as currently configured for home health. As a member of the Task Force, I opposed the effort to deregulate home health and agreed to the final proposal only as an alternative to total deregulation of this area. I believe strongly that the CON has an important role to play in supporting high quality services in home care.

I support MNCHA's position in this matter. They have proposed many of the same arguments advanced by the Hospice Network of Maryland in favor of retaining CON for hospice. Deregulation of home health will not serve the public interest or the needs of the people of this State. I hope that these views are taken into consideration as the Commission reviews the Task Force's final report and that the Commission opts to retain CON in its current form for home health.

Sincerely,

Lynn Bonde
Executive Director
Certificate of Need Task Force Member

Cc: Elizabeth Weglein

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(410) 535-0892, (301) 855-1226 • (410) 535-5377 (fax) • 1-800-735-2258 for the hearing impaired
www.calverthospice.org

Calvert Memorial Hospital
Tradition. Quality. Progress.

December 8, 2005

Ms. Pamela W. Barclay
Deputy Director Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Ms. Barclay:

On behalf of Calvert Memorial Hospital we appreciate the opportunity to forward you our comments regarding the Maryland Health Care Commission's [MHCC] recommendations to streamline and improve the CON process.

We are aware that a number of hospital representatives participated in the process and have provided testimony on the necessary changes to the CON program. We also have reviewed the MHCC CON Task Force recommendations and agree with them in total. It is also our understanding that a comprehensive review of the state health plan will be considered by the MHCC in the coming year.

The one area that we request the MHCC to consider is to **NOT** deregulate the CON process for home care agencies in Maryland. As you probably are aware, Calvert Memorial Hospital is a part owner of the Chesapeake-Potomac Home Health Agency, Inc., which has been serving residents of the tri-county area for over 10 years. Our agency has informed me that deregulation of home health care could have a significant impact on our agency and affect the quality of home health care services in our region. We feel that deregulation would increase the competition for nursing and therapy staff, which currently are at record low numbers. In addition, having multiple agencies serving a particular region of the state could significantly impact the financial strength of our organization. It was not too long ago that our agency was struggling financially due to lower patient volumes. In the past five years, our agency has been able to grow significantly which has enabled our agency to become more financially self sufficient so we could expand and grow to meet community needs. Deregulation of home health care would allow many organizations to set up shop in our state without going through the quality oriented survey process that is currently in place. Finally, with increased federal oversight and regulatory requirements, the required infrastructure capabilities of home care agencies continue to pose increased demands for compliance. The additional

infrastructure could only be spread over higher patient volumes in order for agencies to operate efficiently and effectively. Greater competition would only reduce those volumes from existing home health agencies and would threaten their ability to meet these infrastructure costs.

I urge the MHCC to continue to regulate the CON process for home care agencies.

Sincerely,

JAMES J. XINIS
President & CEO

Colleen Lates

From: Pam Barclay
Sent: Thursday, December 08, 2005 3:11 PM
To: Colleen Lates
Subject: FW: CON for Hospice

-----Original Message-----
From: Lucille Barrett [mailto:LucilleB@carrollhospitalcenter.org]
Sent: Thursday, December 08, 2005 2:29 PM
To: pbarclay@mhcc.state.md.us
Subject: CON for Hospice

Carroll Hospice supports the task force recommendation that the CON remain unchange.
Lucille Barrett

Lucille Barrett RN
Director of Performance Improvement
Carroll Home Care/Carroll Hospice
95 Carroll St
Westminster, MD 21157
410-871-7201
LucilleB@CarollHospitalCenter.org

Chesapeake-Potomac Home Health Agency, Inc.

Setting the Standard for Home Care in Southern Maryland

Ms. Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

December 7, 2005

Dear Ms. Barclay,

This letter is written to inform you that we, the Board of Directors of Chesapeake – Potomac Home Health Agency, do not agree with the proposal to deregulate the CON process for home health agencies in Maryland.

Chesapeake – Potomac Home Health is a Medicare certified, full service agency that has been serving residents of the tri-county area for over 10 years. We feel strongly that the deregulation of home health would not improve the quality or access of home health service or provide any additional benefits to patients receiving home health services.

We feel strongly that deregulation of the present CON would:

1. **Help to increase the competition for nursing and therapy staff**. Since our agency serves a rural area, we already compete with other healthcare providers for clinical staff. Presently, we find it very difficult to fill critical patient care positions. Deregulation of home health would only decrease the number of available clinicians our agency would have to select from.

2. **Not improve access of care**. Our agency is already established and well known within our service area. We have developed a solid working relationship with our referral sources and they know that we will serve the patient regardless of ability to pay for service. In the tri-county area, we already have four to ten providers per county who are already available and willing to treat patients in the home setting.

3. **Will not improve quality of care**. Deregulation of home health would allow many organizations to set up shop in our state without going through the quality oriented survey process that is currently in place. State surveys are greatly beneficial to home health agencies since they identify issues/problems that impact the quality of care given to home health patients. We view the state surveys as an opportunity to improve our services to the community.

We are hoping that after reviewing the above issues, that you will change your position and decide to preserve the current CON process. The CON is extremely valuable within the State of Maryland. Deregulation would most certainly impact both the quality and access of care for patients needing home health services.

Sincerely,

Christine Stefanides
President, CPHHA Board

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Medical Director, CPHHA

Dolores Martin
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CHESTER RIVER HOME CARE & HOSPICE

December 9, 2005

Pamela Barclay, Deputy Director Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

This letter is in response to the MHCC Task Force Report recommending the elimination of the Certificate of Need requirements for Home Care. Currently Chester River Home Care & Hospice services all types of patients in Kent and Queen Anne's counties. CRHC&H is strongly opposed to the elimination of CON requirements for several different reasons. Initially, it would require the development and instituting of a new program to meet the demands for more State surveyors to enforce the Medicare rules and regulations, which in turn would cause an increase in expenses to the State of Maryland. Also, the influx of new agencies would greatly stretch the already current shortage of licensed professionals that an agency has to hire from and this could lead to possible compromising of patient care. Foremost though, this would not increase access of care or increase better quality for the citizens of Maryland, which is the driving force here at Chester River Home Care & Hospice.

Please share our comments with the Commission on December 15, 2005. If you should have any questions or further inquires, I may be reached at the above number at your convenience.

Sincerely yours,

Deborah Reeder, RN

Deborah Reeder, RN
Executive Director

CC: William R. Kirk, Jr., President & CEO, Chester River Health System
Tawney Meredith, Associate Director, MNCHA

Civista Medical Center
701 East Charles Street
P.O. Box 1070
La Plata, Maryland 20646-1070

301.609.4000 Phone

2005 DEC -1 PM 1:53

November 29, 2005

Stephen J. Salamon, Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Salamon:

It was my honor to serve as a member of the Maryland Health Care Commission's Certificate of Need (CON) Task Force, and as a member of that group I urge the Commission to take favorable action on the following MHCC CON Task Force recommendations:

CIVISTA. Health

- Increase in the capital expenditure review threshold to $10 million for hospitals and $5 million for other health care facilities.
- Inclusion of information systems in the business office equipment exemption.
- Development of a "fast track" CON review process for hospital projects that do not include new services or beds and do not require a partial rate review.
- Revision of the Determination of Noncoverage requirements for hospitals taking the "pledge" to deem the request approved if not acted upon by the Commission within 60 days.
- Removal of the public informational hearings requirement for hospitals in jurisdictions with more than two hospitals and the removal of the requirement to obtain CON review for hospitals in jurisdictions with fewer than three hospitals.
- Review and update of the State Health Plan, to include development of shell space in hospitals under specific circumstances, as well as eliminate redundant standards and update others.
- Streamline the CON review process, through the various measures in the recommendations.

I would like to express concern regarding the recommendation to eliminate the CON requirement for Home Health Agencies. The Task Force grappled with this issue several times and was very divided. I advocate that the CON requirement be retained for Home Health Agencies. This would be consistent with the recommendations of the Task Force in regard to Hospice.

Finally, I would urge the Commission to eliminate the batch review cycles as quickly as possible.

In conclusion, I would like to thank Chairman Nicolay, my fellow task force members and the MHCC staff for their time and work in addressing improvements to the CON program in Maryland.

Sincerely,

Christine M. Stefanides

Christine M. Stefanides, RN, CHE
President and Chief Executive Officer

CMS:dkg

Pam Barclay

From: Marion Keenan [mkeenan@coastalhospice.org]
Sent: Friday, December 09, 2005 2:06 PM
To: pbarclay@mhcc.state.md.us
Subject: CON for Hospice

Ms. Pam Barclay
Deputy Director of Health Services
Maryland Health Care Commission

Dear Ms. Barclay:

Coastal Hospice supports the findings of the Task Force on CON that Hospice should continue to be regulated by CON in Maryland.

Coastal Hospice was founded in 1980 and serves Worcester, Wicomico, Somerset, and Dorchester counties. We are Medicare certified and JCAHO accredited. Should a hospice like ours in a fairly rural area be faced with competition for nurses, volunteers, donations, or patients who can pay for services, its financial integrity and ability to serve the community would be significantly jeopardized. Maryland's metropolitan areas are thoroughly saturated with hospices already.

Thank you for considering our comment.

Yours truly,
Marion F. Keenan
President
Coastal Hospice
PO Box 1733
Salisbury, MD 21802-1733
410-742-8732 ext. 106
mkeenan@coastalhospice.org

Pam Barclay

From: Marion Keenan [mkeenan@coastalhospice.org]
Sent: Friday, December 09, 2005 1:50 PM
To: pbarclay@mhcc.state.md.us
Subject: Comment on CON for Home Health

Ms. Pam Barclay
Deputy Director of Health Services
Maryland Health Care Commission

Dear Ms. Barclay:

Since 1981, Coastal Hospice has operated a licensed home health agency specializing in the care of patients in Worcester, Wicomico, and Somerset counties needing palliative care services at home. We are Medicare Certified and accredited by the Joint Commission on Health Care Organizations.

We write to object to deregulation of CON for Home Health. We find little evidence that eliminating CON for Home Health improves quality or access. For example, Florida saw a 100% increase in numbers of agencies five years after eliminating CON, an addition of over 300 agencies from 2000 to 2005. I believe that the percentage of accredited agencies actually fell.

We hope the Health Care Commission will support continuing Maryland's current CON process for Home Health.

Thank you.

Marion F. Keenan MA, MBA
President
Coastal Hospice
PO Box 1733
Salisbury, MD 21802-1733
410-742-8732 ext. 106
mkeenan@coastalhospice.org

Family & Children's Services
of Central Maryland
Guiding families. Strengthening communities.

November 10, 2005

Commissioner Robert E. Nicolay, Chairman
Certificate of Need Task Force
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: Skilled Home Health Care Requirements

Dear Mr. Nicolay:

I am writing to urge the Maryland Health Care Task Force to remove the requirement that skilled home health care agencies obtain a Certificate of Need as a part of the licensure process. The current requirement established as part of the Maryland Health Care Commission's Five Year Plan seriously disadvantages non-profit organizations seeking to bring these services to lower income families.

Family and Children's Services of Central Maryland has been serving the Central Maryland community since 1849. We are a private, non-profit agency with an IRS designation as a 501{c}3 organization. We provide a variety of life span services to families in Baltimore City, Anne Arundel, Baltimore, Carroll, Harford, and Howard counties through our 15 locations. For almost seventy years, we have provided services to the elderly and disabled designed to maintain these populations in the community. These services are offered through contracts with local departments of aging and departments of social services and through sliding fee scale charges to private pay clients. Through this program, we maintain over 600 older adults in the community each year.

The majority of these clients have chronic conditions that range from complete immobility to individuals who need housekeeping services only. As a rule, a care plan contains a mixture of personal care, light housekeeping, errands and perhaps meal preparation. Elder Services employs registered nurses to conduct assessments of clients, develop customized care plans, monitor clients every 60 days, as well as provide on-site supervision of the Certified Nursing Assistants.

150TH ANNIVERSARY 1849-1999

4623 Falls Road • Baltimore Maryland 21209 • 410/366-1980 • fax: 410/366-8530 • e-mail: info@fcsmd.org
website: www.fcsmd.org • tdd: 410/669-0770
Accredited: Council on Accreditation of Services for Families and Children
Member: Child Welfare League of America, National Association for Home Care, United Way of Central Maryland

Our desire to provide skilled home health care springs from our commitment to providing a continuum of care for the elder/disabled. It makes sense for the professional staff that has been caring for clients to continue that care without interruption when skilled services are necessary. Under the current rules, our clients who enter an acute medical crisis and require skilled care have to deal with a whole new set of providers and regulations. This requirement is very stressful for our clients and their family members.

Current Maryland regulations do not allow us to qualify as a skilled home care provider because no new Certificates of Need are being issued despite overwhelming evidence demographically of a growing elderly/disabled populations needing these services. We hope that you will recommend to the Maryland Health Care Commission that the availability of skilled services to the elderly/disabled be broadened by removal of the Certificate of Need requirement.

Thank you for your consideration of this request.

Sincerely,

Stanley A. Levi, LCSW-C
Executive Director

4623 Falls Road • Baltimore Maryland 21209 • 410/366-1980 • fax: 410/366-8530 • e-mail: info@fcsmd.org
website: www.fcsmd.org • tdd: 410/669-0770
Accredited: Council on Accreditation of Services for Families and Children
Member: Child Welfare League of America, National Association for Home Care, United Way of Central Maryland

Family & Children's Services
of Central Maryland
Guiding families. Strengthening communities.

2005 DEC -9 PM 3:42

December 8, 2005

Gail R. Wilensky, Ph.D., Vice Chair
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: Skilled Home Health Care Requirements

Dear Dr. Wilensky:

I am writing to urge the Maryland Health Care Commission to remove the requirement that skilled home health care agencies obtain a Certificate of Need as a part of the licensure process. The current requirement established as part of the Maryland Health Care Commission's Five Year Plan seriously disadvantages non-profit organizations seeking to bring these services to lower income families.

Family and Children's Services of Central Maryland has been serving the Central Maryland community since 1849. We are a private, non-profit agency with an IRS designation as a 501{c}3 organization. We provide a variety of life span services to families in Baltimore City, Anne Arundel, Baltimore, Carroll, Harford, and Howard counties through our 15 locations. For almost seventy years, we have provided services to the elderly and disabled designed to maintain these populations in the community. These services are offered through contracts with local departments of aging and departments of social services and through sliding fee scale charges to private pay clients. Through this program, we maintain over 600 older adults in the community each year.

The majority of these clients have chronic conditions that range from complete immobility to individuals who need housekeeping services only. As a rule, a care plan contains a mixture of personal care, light housekeeping, errands and perhaps meal preparation. Elder Services employs registered nurses to conduct assessments of clients, develop customized care plans, monitor clients every 60 days, as well as provide on-site supervision of the Certified Nursing Assistants.

4623 Falls Road • Baltimore Maryland 21209 • 410/366-1980 • fax: 410/366-8530 • e-mail: info@fcsmd.org
website: www.fcsmd.org • tdd: 410/669-0770

Our desire to provide skilled home health care springs from our commitment to providing a continuum of care for the elder/disabled. It makes sense for the professional staff that has been caring for clients to continue that care without interruption when skilled services are necessary. Under the current rules, our clients who enter an acute medical crisis and require skilled care have to deal with a whole new set of providers and regulations. This requirement is very stressful for our clients and their family members.

Current Maryland regulations do not allow us to qualify as a skilled home care provider because no new Certificates of Need are being issued despite overwhelming evidence demographically of growing elderly/disabled populations needing these services. We hope that you will decide to increase the availability of skilled services to the elderly/disabled by removal of the Certificate of Need requirement.

Thank you for your consideration of this request.

Sincerely,

Stanley A. Levi, LCSW-C
Executive Director

4623 Falls Road • Baltimore Maryland 21209 • 410/366-1980 • fax: 410/366-8530 • e-mail: info@fcsmd.org
website: www.fcsmd.org • tdd: 410/669-0770

FMH Home Health Services
A Division of the Frederick Memorial Healthcare System

400 West Seventh Street
Frederick MD 21701-4593

Ph 301-698-3568
Fax 301-698-3984

December 8, 2005

Mr. Stephen Salamon
Commissioner
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore MD 21215

Dear Mr. Salamon:

This letter is written to inform you that Frederick Memorial Hospital Home Health Services does not agree with the proposal to deregulate the CON process for home health agencies in the state of Maryland.

While we support some of the recommendations of the Task Force, we strongly oppose the recommendation to deregulate the CON process for home health services. Frederick Memorial Hospital Home Health Services has been serving residents in Frederick County, Maryland since 1974. It has been our commitment to serve all patients that meet home health criteria in our service area. It is our belief that the deregulation of home health would not improve the quality or access of home health service or provide any additional benefits to patients receiving home health services.

Without exception, we believe that the guiding principles created by the task force are particularly valuable; however, we believe these very principles only point out the importance of the retention of the CON for home health agencies. Patients in the State of Maryland are currently receiving quality care and have not been subject to any limitations. Therefore, according to your own criteria, The CON is working! There are no arguments or statistical data in this report to suggest that there are patient needs not being met.

The statements below list reasons why we feel strongly that CON elimination and deregulation would have a negative effect on patients in the state of Maryland:

- QUALITY OF CARE - Without the certificate of need there will be uncontrolled proliferation of home health services that would overwhelm the state's ability to adequately monitor and control the quality of home health services. The low capital required to establish home health services often invites marginal providers without the financial resources to sustain current agency high quality services.
- ACCESS TO CARE - Eliminating the CON requirement opens the door to provide services only to Medicare and/or commercial patients, which will negatively impact the provision of quality services to our most vulnerable population including Medicaid recipients. Greater numbers of home health agencies do not improve the access to care for the urban and rural areas. To the contrary, the market forces would increase competition in the most populated areas, pulling providers from the already underserved locations.

- DELIVERY OF CARE - Unlike the typical open market businesses, the homecare industry cannot manufacture its' "product". There is a severe shortage of therapists, RN's and other providers. Increasing the agencies that can employ them won't improve the quality, cost or delivery of the service. It can only do the exact opposite because as the competition causes the wages for this limited group of providers to increase, decreased revenues will force cuts in quality and service.
- NEEDS BASED THEORY - The alternative recommendation to "eliminate from the State Health Plan the Home Health Agency need methodology and/or projection" is difficult to understand. Need should be a defining criteria. In the absence of any evidence that needs are not being met under the current system, a better approach may be to modify the requirements of participation to include Medicaid participation and charity care.
- SYSTEMS IMPACT - The Office of Health Care Quality, which would be responsible for licensing and surveying, is already facing extreme budgetary restrictions that would be severely exacerbated by an influx of new agencies into this system. Surveys are critical for identifying the issues that impact the quality of care, particularly for newly formed agencies. Until a plan and budget is in place for initial surveys and sanctions it would be irresponsible to consider de-regulation. The argument that Medicare regulations provide strict controls is irrelevant to the need of enforcement and oversight at the state level.

It is Frederick Memorial Hospital Home Health Services hope that after reviewing the issues stated above, you will change your position and make the decision to preserve the current CON process. At the minimum, the above identified issues clearly warrant further research on the best way to manage home health services in the State of Maryland. In conclusion, deregulation will most certainly impact both quality and access of care for patients needing home health services.

Sincerely,

Lynette Godhard

Lynette Godhard, MGA, RN
Director
FMH Home Health Services

Department of Health and Mental Hygiene
State of Maryland
Garrett County Health Department
"Working Together for a Healthier Tomorrow"
www.garretthealth.org

Rodney B. Glotfelty, RS, MPH, Health Officer
1025 Memorial Drive
Oakland, Maryland 21550

301-334-7777 or 301-895-3111
FAX 301-334-7701
Equal Opportunity Employer

December 6, 2005

Commissioner Robert E. Nicolay, Chairman
Certificate of Need
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Mr. Nicolay,

We would like to go on record, a second time, to address the issue of deregulation and elimination of CON.

We understand the Task Force will be addressing the issue of the CON for Home Health Agencies. Again, we continue to state for the record, to maintain the existing Certificate of Need Review Requirement for new or expanding Home Health Agencies.

If the CON is eliminated for Maryland, our home care agencies could be at a disadvantage, due to neighboring states having a current CON. Garrett County Health Department Home Health Agency would not be able to compete with the already existing agencies in the county and the ability of neighboring states to cross state lines.

We thank you for the opportunity to submit this initial comment. We look forward to hearing from you regarding the outcome of this first Public Forum.

Sincerely,

Rodney B. Glotfelty, R.S., M.P.H.
Health Officer
Garrett County Health Department

Linda Moe, R.N., Director
Garrett County Health Department
Home Health Agency

GM/h

MHCC file

Ms. Pam Barclay
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

December 6, 2005

Dear Ms. Barclay:

I am writing as a representative for Gentiva Health Services, the nation's largest comprehensive homecare provider, to oppose the elimination of the Certificate of Need (CoN) for home health agencies as proposed by the Task Force on CoNs. Gentiva has previously stated our position officially with the Task Force but would like to reiterate our concerns as the Task Force is poised to consider its final recommendations.

First and foremost, Gentiva is concerned with the numbers of agencies who have entered the market in other States without a CoN requirement. The main concern is ensuring legitimate and quality providers at a time when State's do not have the resources or financial capabilities to provide sufficient oversight.

As was mentioned in my testimony to the Task Force members, one excellent example is the State of Florida. The State eliminated the CoN on July 1, 2000. While the CoN was effective, the State had approximately 20 new providers applying for a CoN each year. Following the elimination of the CoN, the number increased five times to 120 a year! In real numbers, the State of Florida had in May 2000, 330 certified home health agencies. In May 2005, the State now has 658 certified home health agencies. A primary concern should be consideration by the State of sufficient resources to ensure quality providers if the CoN is eliminated. If not, the State will be presented with patient safety and quality of care concerns – a result not wanted by either the State or by quality home health providers.

Furthermore, other States with the CoN requirement have recently considered its elimination only to determine that such a reversal would not be in the best interests of the health care delivery system and ultimately the patient. The same concerns and problems should have the Task Force members oppose elimination of the CoN for home health too.

Another critical consideration for patient safety is the influx of providers that will seek to recruit nurses or therapists to their organizations. Gentiva, similar to other health care providers, competes for quality nurses and therapists. The shortage is well documented at the Maryland Health Care Commission. With an influx of new providers, this situation will only be further exacerbated.
I am therefore urging for the Task Force to oppose elimination of the CoN for home health services. If you should have any questions, please call me at my office number 410-760-3888 or my cell at 607-621-9646.

Sincerely,

Sue Ellen Stuart
Area Director
Gentiva Health Services
8028 Ritchie Highway
Pasadena, MD 21122

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE

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Executive Director

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Policy & Operations

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Hospital Rate Setting

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Deputy Director
Research and Methodology

HEALTH SERVICES COST REVIEW COMMISSION
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December 8, 2005

Rex W. Cowdry, M.D.
Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore MD 21215

On behalf of the Health Services Cost Review Commission (HSCRC or Commission), I would like to thank you for the opportunity to offer comments on the Maryland Health Care Commission's (MHCC) Report of the Certificate of Need Task Force. For simplicity, I have included our comments that are pertinent to the sections as you have outlined in your Summary of CON Task Force Recommendations.

Scope of CON Coverage

We support the recommendation to increase the capital expenditure review threshold from $1.25 million to $10 million for regulated hospitals (#1). We also support the recommendation of a streamlined "Fast Track" CON review process for hospital renovation and new construction projects with no new services or for which the hospital agrees not to file a partial rate application for capital so long as the hospital explicitly states that it will not ask for increased rates associated with the project in the future (i.e., "takes the pledge") as part of the "Fast Track" review process (#3).

Finally, for items four and five, where the recommendations suggest a deemed approval status for uncontested applications or "pledge" requests not acted on within certain time periods, we are supportive to the extent that a delay in processing an application is not the result of a lack of timely, accurate, and complete financial data from the applicant hospital. The importance of such detailed financial information for the HSCRC to fulfill its analytical role in the CON process cannot be overemphasized. The theoretical 'clock' in these deemed approval cases, therefore, should be stopped until such necessary financial information has been received and affirmatively acknowledged as complete by the HSCRC.

State Health Plan (SHP)

The HSCRC is not opposed to the development of shell space, provided that the hospital does not seek a rate adjustment while the space is unused. We do, however, have some reservations with the concept, as it is our belief that once the space exists, it will eventually be developed into additional capacity. Under the Commission's charge per case methodology (CPC), we have the ability to limit increases in hospital costs on a per-case basis, thereby limiting the negative cost implications that may be associated with any project. What the Commission cannot control, however, are unnecessary increases in hospital volume which are a result of a project. We would ask that the MHCC monitor the development of shell space to ensure that additional costs associated with such projects do not have a deleterious effect on overall hospital costs.

We are also strongly supportive of the Task Force recommendation to study alternatives to eliminate the inconsistency between the 140% rule for establishing licensed acute care bed capacity and SHP occupancy assumptions. We do not believe, however, that the 140% value (or 71.2% occupancy) is a reasonable standard for efficient use of capacity in the SHP. The HSCRC would strongly encourage the MHCC to develop an occupancy standard that is a truly reasonable occupancy standard, given changes in hospital room configuration (principally the large increase in private rooms) and projected volume increases.

Finally, I would strongly recommend that the MHCC reconsider the issue of the creation of a SHP chapter on Emergency Departments (ED). As we both know, the continued expansion of ED capacity is an enormous cost driver in Maryland, yet many unanswered questions continue to surround the issue of ED overcrowding. Any additional information collected under such a SHP chapter would be essential in addressing future ED issues, such as ED capacity, diversion, and volume. I cannot overemphasize how important I believe this issue is, and would again strongly encourage the MHCC to return this issue to consideration by your full Commission.

Thank you again for the opportunity to comment on the MHCC's efforts to update the CON scope and process and the State Health Plan, and I wish you success as you move forward in your endeavor. If you have further questions, please do not hesitate to call me at (410) 764-2605.

Sincerely,

Robert Murray

Robert Murray
Executive Director

December 9, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

Holy Cross Home Care appreciates the opportunity to comment on the Certificate of Need Task Force report recommendation related to Home Health that was released on November 22, 2005.

Holy Cross Home Care opposes removing home health services from CON review. We believe that doing so is inconsistent with the guiding principles so well defined by the Task Force report. There is a serious risk that unconstrained growth could lead to decreased access to care by vulnerable populations and a diminution of the quality of care. It could also create significantly higher or unnecessary costs to the system. The alternative of modifying the quantitative need methodology is far preferable., but should be done carefully with full input from the Home Care Community. Similarly, any modification of the application standards for home care should be consistent with the guiding principles. In particular, they should ensure that new applicants are evaluated based on their ability to promote quality, promote accessibility for underserved populations, reduce disparities, and promote affordability. Finally, the current quantitative need methodology should be reviewed for appropriateness and accuracy, not eliminated. It has functioned positively in the past and should be considered as one element of an overall Need assessment.

Sincerely,

Margaret Hadley, RN, MS
Director

December 9, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

Holy Cross Hospice appreciates the opportunity to comment on the Certificate of Need Task Force report recommendation related to Hospice that was released on November 22, 2005.

Holy Cross Hospice **supports the Task Force recommendation that CON regulation of hospice remain unchanged**. We believe that this recommendation is consistent with the guiding principles so well defined by the Task Force report and will continue to protect Maryland consumers from the negative effects of unconstrained growth which include decreased access to care by vulnerable populations and a diminution of the quality of care. The current CoN program has functioned well and should be maintained as is. We applaud the Task Force for its recommendation regarding Hospice CoN.

Sincerely,

Margaret Hadley, RN, MS
Director

HOLY CROSS HOSPITAL

1500 Forest Glen Road
Silver Spring, MD
20910-1484
(301) 754-7000
www.holycrosshealth.org

December 9, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

Holy Cross Hospital appreciates the opportunity to comment on the Certificate of Need Task Force report that was released on November 22, 2005. With one exception, Holy Cross Hospital supports the task force recommendations. We believe the guiding principles are a particularly valuable outcome of the taskforce and that these principles should be very helpful as the CON program and the state health plan are modified over time.

Holy Cross Hospital opposes removing home health services from CON review. We believe that doing so is inconsistent with the guiding principles. There is a serious risk that unconstrained growth could lead to decreased access to care by vulnerable populations and a diminution of the quality of care. It could also create significantly higher or unnecessary costs to the system. The alternative of modifying the quantitative need methodology is far preferable. This approach is similar to the recent modification of the state health plan chapter on obstetrics, another service for which there is adequate supply. Given this lack of "need" the evaluation of potential new obstetric providers has shifted to an assessment of the benefits that a new provider will bring to the market in terms of quality or accessibility for vulnerable populations. Similarly, any modification of the application standards for home care should be consistent with the guiding principles. In particular, they should ensure that new applicants are evaluated based on their ability to promote quality, promote accessibility for underserved populations, reduce disparities, and promote affordability.

Finally, while Holy Cross Hospital strongly supports the recommendation to eliminate obsolete and duplicative CON review standards, it is important that this be done carefully so that the resulting acute care chapter is fully consistent with the guiding principles and provides enough information to enable the Commission to make a well-informed evaluation of the benefits and risks of any proposed project.

Sincerely,

Kevin J. Sexton
President & CEO

1080 W. Patrick Street • Suite 1043 • Frederick, MD 21703
301-644-3085 • 301-644-2990 Fax • 1-800-444-0097

December 9, 2005

Mr. Stephen Salamon
Commissioner
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Mr. Salamon:

Thank you for the opportunity to comment on the recent *Report of the Certificate of Need Task Force*. For the reasons set forth below, HomeCall does not agree with the recommendations to eliminate the Certificate of Need (CON) for home health services in Maryland.

HomeCall has been providing home health services in Maryland for over thirty (30) years, serving an average daily census of 1,300. HomeCall has a CON to provide home health services in nineteen (19) jurisdictions. Our objection to the removal of the CON for home health services is based on our many years of experience in providing high quality services to our patients.

The Task Force assumes eliminating the CON requirement will result in a higher level of care. Nothing could be further from the truth. Allowing any entity to provide home care services will result in a bidding war for skilled management and caregivers, thus aggravating the current labor shortage we face in this industry and further jeopardizing access to quality providers.

Many of the present home health providers have a mixture of large and small branches, assuring access to home health services in less populated areas. Eliminating the need for a CON will result in a proliferation of providers in larger, more populated urban/suburban areas. This will make it more difficult for current providers to retain the cost of small branches, thus further aggravating access to home health services in rural areas.

It is our understanding that currently the Commission has open over three hundred (300) potential applicants. If only a third of these applicants actually apply, this will double the number of home care companies. What is the cost of these additional initial and on-going surveys? The State is already fifty-five surveyors short in this department.

In conclusion, HomeCall does not believe eliminating the CON will advance the quality of health care available to Marylanders using home health services. Rather, it will disrupt the workforce, further jeopardizing continuity of care, and drive up the costs of home health services for patients and third-party payers.

Again, on behalf of HomeCall, thank you for the Commission's hard work and for giving all interested parties the opportunity to comment on this report. Please do not hesitate to call if you have any questions.

Sincerely,

Artie R. Esworthy, Jr.
President

"The Bridge to Peace of Mind"
HOSPICE
NETWORK OF MARYLAND

December 8, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

The Hospice Network of Maryland, representing all 30 hospices in the State of Maryland, appreciates the opportunity to provide its views on the recommendations and report of the MHCC's Certificate of Need Task Force. The Hospice Network urges the Commission to adopt without modification the Task Force's recommendation to take no action to alter the current CON process for Hospice.

As evidenced by the documentation accompanying the Task Force report, the members of the Task Force engaged in several detailed discussions regarding the need to retain the current regulatory system for hospice. The Task Force also received oral and written comments on the issue, the vast majority of which supported continued regulation of hospice under CON. In the end the Task Force recommended overwhelmingly by a margin of 3 to 1 to keep CON regulation for hospice intact.

The reasons supporting the Task Force's recommendations are amply demonstrated in the record. The Hospice Network will only summarize them here:

- The CON process for hospice has produced substantial benefits for the citizens of this State:
    - Maryland serves the third highest percentage of African Americans (after South Carolina and Georgia) of all states reporting data as part of the National Hospice and Palliative Care Association's National Data Set.
    - The CON process has protected the citizens of the State of Maryland from some of the worst excesses of unscrupulous Hospice providers that were unmasked during Operation Restore Trust.
- Altering the current CON process for hospice could have serious adverse consequences for the quality and availability of Hospice care in the State.
    - Hospices that are already coping with essentially flat revenues and soaring costs will have to divert resources from providing care to the dying to compete with one another.
    - Aggressive competitors who may be more concerned with cutting costs will "cherry-pick" the most lucrative patients, while sacrificing quality of care for the majority.

In summary, the Hospice Network of Maryland appreciates the efforts of the Task Force and applauds its conclusion to retain CON for hospice. The Hospice Network of Maryland urges the Maryland Health Care Commission to adopt this recommendation without change and to retain the existing CON regulation for hospice care.

Sincerely,

Erwin E. Abrams

Erwin E. Abrams
President

December 9, 2005

Dear Ms Barclay,

On behalf of the Board of Directors, Staff and Volunteers of Hospice of Queen Anne's, I would like to offer my support of the MHCC CON Task Force recommendation that CON regulation of Hospice remain unchanged.

Our hospice team has provided care to the terminally residents of our county since 1985, and strives to meet our mission of serving individuals, families and the community by providing comprehensive, professional, compassionate end-of-life care and bereavement support.

It is necessary for hospice programs to dedicate every dollar possible to patient and family care, while retaining scarce professional staff and still compete in the market place. As a small, non-profit, community-based hospice program, we depend heavily on the generosity of our local donors for fund-raising dollars and volunteer support. Increased competition would affect the delicate balance of available resources in our community.

Thank you for the opportunity to offer our comments and support of maintaining the Hospice CON.

Sincerely,

Eileen Lacijan

Home Health Services
Pediatrics at Home
Pharmaquip
2400 Broening Highway
Baltimore, Maryland 21224
410-288-8000 T

JOHNS HOPKINS
MEDICINE

JOHNS HOPKINS
HOME CARE GROUP

December 9, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Salamon:

I am writing to express my concern regarding one of the recommendations of the CON Task Force. I understand the recommendations are now under consideration by the full Commission. I implore the Commission to take into consideration the "Principles to Guide the CON program" while making this decision.

After much debate, the Task Force has recommended that home health care be removed from the definition of a health care facility in the CON statute, thereby relieving home health care agencies from their obligation to abide by the requirements in the State Health Plan. Most important among these obligations is that to provide services to patients covered by Medicaid or who are uninsured—financially undesirable patients.

Many home health agencies are only interested in providing services to the Medicare population, where reimbursement is higher than Medicaid. Under the current system, it is required that a proportion of the services provided by home health agencies be provided to Medicaid and uninsured patients. Removing this requirement will impede access to home health services by financially vulnerable populations.

Additionally, removing the Medicaid and charity care requirement will severely stress the home health agencies that are committed to serving these populations regardless of whether doing so is required. It will be hard for any non-profit home health agency, committed to serving all patients, to compete against the agencies that cherry-pick the higher-reimbursement commercial and Medicare patients. These agencies will have a significant advantage over others, like Johns Hopkins Home Care Group, who are committed to serving all patients regardless of insurance coverage. The proliferation of for-profit agencies will make it increasingly difficult for the agencies serving all patients to hire and retain qualified staff in an already stressed recruitment environment.

Home health services are an essential part of a continuum of care that maximizes available resources. The availability of these services allows patients to leave the hospital sooner, which is usually better and more desirable for the patient and also creates

additional capacity in inpatient facilities. Patients without access to these services sometimes remain in the hospital longer and could be at higher risk for readmission without the support that they need at home. In short, home health care is not only essential to the well-being of some patients, it is also a tool to achieve greater efficiency and to preserve resources in our health care system. This efficiency will be eroded if care is only provided to certain, financially more desirable patients.

Sue Ellen Stuart of Gentiva Health Systems provided testimony in the June 7, 2005 CON Task Force Public Forum (pages 38-40 of the MHCC Report of the Certificate of Need Task Force) of the experience in the State of Florida, which eliminated the CON requirement for home health agency services on July 1, 2000. Since the elimination, the number of Medicare-certified agencies has doubled. "Similarly, significant increases in the number of certified home health agencies occurred in other states that repealed the Certificate of Need requirement... the increase in providers will make it very difficult to appropriately assure the quality of the services being delivered to the patients needing care, and strains resources available to ensure that the provider is a legitimate provider." There will not be enough resources, without adding significant cost, to assure the residents of Maryland are receiving quality care, safely. The number of home health agencies will increase, with no data to indicate need.

I understand the final vote regarding this recommendation was close—7 to 7, with the Chair breaking the tie in favor of deregulation. This shows considerable contention among a group of extremely knowledgeable and experienced health care professionals. Further, the Task Force representative for the Home Care Industry, voted to abstain because an early poll of the agencies by the Maryland-National Capital Homecare Association (MNCHA) suggested the industry was split on this issue. That vote had a very low participation rate, and was taken early on in the Task Force process without understanding the implications that the poll would lead to an official recommendation to change legislation. Since the report has been issued, MNCHA has polled the home health agencies again. The agencies have voted overwhelmingly to oppose elimination for the Certificate of Need for Home Health Agencies.

I would propose that the recommendation to remove home health care from the definition of a health care facility in the CON statute violates all the Guiding Principles in that it would result in significantly higher cost to the system, decrease access to care of vulnerable populations, and diminish the quality and safety of patient care.

I hope you and the other Commissioners will take that into account when you consider this issue, and that you will agree that, given the importance placed on access to care in the guiding principles, the opposition by the industry and the lack of consensus among the Task Force members, it is not prudent to remove home health care from the CON program at this time.

If the full Commission decides to proceed with removing home health care from CON coverage, I urge the Commission to try to mitigate the harm to vulnerable populations by

finding a way to require that all home health care agencies serve Medicaid and uninsured patients as a proportion of their business.

I appreciate the time and attention that the Task Force devoted to discussions concerning the relative merits of continuing to regulate home health care through the CON process versus removing home health care from CON regulation. Thank you for allowing me to share my concern with you today. If you have any questions about the issues I have addressed, please don't hesitate to contact me.

Sincerely,

Daniel B. Smith
President, Johns Hopkins Home Care Group

cc: Pamela W. Barclay, Deputy Director, Maryland Health Care Commission
Robert Nicolay, Chairman, MHCC CON Task Force

JOHNS HOPKINS
MEDICINE

Ronald R. Peterson

President
Johns Hopkins Health System
The Johns Hopkins Hospital

Executive Vice-President
Johns Hopkins Medicine

December 9, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Salamon:

On behalf of the Johns Hopkins Health System and its three member hospitals, The Johns Hopkins Hospital, Johns Hopkins Bayview Medical Center, and Howard County General Hospital, I would like to express my appreciation for the hard work of Commissioner Nicolay and the Certificate of Need Task Force. I strongly support the nature of their work and most of the proposed changes to the CON program. These changes are significant strides toward a more efficient and effective Certificate of Need program in Maryland.

There is one recommendation that causes me concern --- one that I hope you and the other commissioners will decide not to adopt. After debating whether each service should continue to be regulated under the CON program, the Task Force determined that all currently regulated services should remain under CON except home health care. Consequently, the Task Force has recommended that home health care be removed from the definition of "health care facility" in the CON law.

Removing home health care from CON regulation has the potential to impede access to these services for Medicaid and uninsured patients. In the current system, home health agencies are required to provide care to these patients. Without this requirement, it is likely that some agencies will stop caring for these patients, and it will be increasingly difficult for those agencies that continue their commitment to serve all patients to stay in business. Also, agencies that do not serve Medicaid and uninsured patients will have an advantage in hiring and retaining staff in an already difficult hiring environment.

Additionally, removing home health care from the CON program is inconsistent with the guiding principles established by the Task Force itself. The guiding principles state that the CON program should "promote improved access to these services, including addressing the needs of underserved populations . . .", and that "CON should apply in situations where market forces are

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likely to result in decreased access to care by vulnerable populations." Removing home health will decrease access to care for patients with Medicaid or who are uninsured.

We commend the Task Force for taking the time to craft proposed principles to guide the CON program and hope that the full Commission will honor these principles as you consider changes to the program. With the exception of our concerns about home health care, we fully support and strongly recommend the adoption of the recommendations of the Task Force, as briefly outlined below.

We support the following proposed changes in the scope of CON coverage:

- Increase the current capital expenditure review threshold from $1.65 to $10 million for hospitals and $5 million for other health care facilities.

- Expand the existing business office equipment exemption to include health information technology/medical information systems.

- Develop a streamlined ("Fast Track") CON review process for hospital renovation and new construction projects with no new services or beds that do not require a partial rate review; issue a staff report within 60 days and commission decision within 90 days, or the project is deemed approved.

- Revise Determination of Noncoverage requirements for hospitals taking the "pledge" not to increase rates to deem the request approved if not acted upon by the commission within 60 days.

- Remove the requirement for public informational hearings for hospital closures in jurisdictions with more than two hospitals; remove the requirement to obtain an exemption from CON review for hospital closures in jurisdictions with fewer than three hospitals.

We support the conduct of a comprehensive review and update of the State Health Plan, with priority given to the Acute Inpatient Services and Ambulatory Surgical Services chapters.

We support the following procedural changes:

- Modify the completeness review and project review process by requiring two conferences as a standard feature of the review of any CON application;

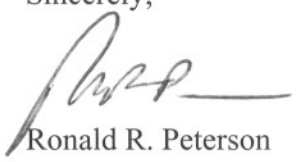
- Modify the review process by allowing for changes in a project addressed in the project status conference that bring it in closer conformance with the State Health Plan, based on staff or the Reviewer's analysis, without penalizing such changes by adding more process or time to the review;

- Develop an automated CON application form; require PDF of CON application document; develop standard form for filing requests for Determinations of Non-Coverage; provide Web site access to CON filings.

Finally, we support the formulation of a technical advisory group to study alternatives to eliminate the inconsistency between the 140 percent rule for establishing licensed acute care bed capacity and the State Health Plan occupancy assumptions. This issue is complex, and will need careful consideration beyond what the Task Force was able to do in the time available. Additionally, we strongly recommend that the Commission eliminate the batch review cycles. We believe this constrains our hospitals' ability to act on projects in a timely manner, making them less efficient.

Thank you for the opportunity to offer my comments on the recommendations of the Task Force. The Task Force undertook important work and gave it the careful consideration it deserves. I look forward to the positive impact that these changes will have.

Sincerely,



Ronald R. Peterson

cc: Robert Nicolay, Chairman, MHCC CON Task Force
Gregory Schaffer, President, Johns Hopkins Bayview Medical Center
Victor Broccolino, President, Howard County General Hospital
Daniel Smith, President, Johns Hopkins HomeCare Group
Patricia M.C. Brown, Esq., Johns Hopkins Health System

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Via: **Facsimile: 410-358-8811**
and First Class Mail

December 9, 2005

Mr. Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Re: Recommendations of the Certificate of Need Task Force

Dear Mr. Salamon:

I write on behalf of LifeBridge Health, the parent organization of Sinai Hospital of Baltimore, Northwest Hospital Center, Levindale Hebrew Geriatric Center and Hospital, and Jewish Convalescent and Nursing Home, which collectively operate over 1,100 hospital and nursing home beds.

I have been following closely the activities of the Certificate of Need Task Force established by the Commission earlier this year, and have reviewed the Task Force's recommendations. I believe the Task Force has given thoughtful consideration to how the CON process could be made more effective. Adoption of the Task Force's recommendations will produce significant improvements in the CON process, reducing the administrative burdens on providers and Commission staff while focusing the Commission's review on those issues most likely to affect the cost, quality, and availability of health care services in the State.

LifeBridge Health is particularly supportive of the following recommendations, as we believe their adoption and implementation will have an immediate positive impact:

- increasing the capital expenditure threshold to $10 million for hospitals and $5 million for other health care facilities

- developing a "fast track" for CON applications that do not involve new services or beds

- providing that CON applications not involving new services or beds, as well as requests for determinations of noncoverage, will be deemed to be approved unless the Commission takes other action within a specified period

- eliminating the counterproductive policy currently employed by Commission staff (without formal adoption by the Commission) that categorically precludes hospitals from construct shell space to accommodate expected future growth

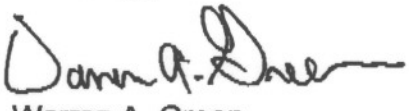
- eliminating the many obsolete and irrelevant standards currently contained in the State Health Plan

- clarifying that expenditures for health information technology and medical information system do not require CON review

- creating standardized, electronic forms for both CON applications and requests for determination of noncoverage

I encourage the Commission to adopt the Task Force's recommendations and to take all necessary steps to implement them – particularly those set out above – as quickly as possible.

Sincerely yours,



Warren A. Green

MHA

Maryland
Hospital
Association

2005 NOV 22 PM 3:07

November 21, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Salamon:

On behalf of the 69 members of the Maryland Hospital Association (MHA), I am writing in strong support of the recommendations of the Maryland Health Care Commission's Certificate of Need (CON) Task Force, as noted below, and urging favorable action on the recommendations by the commission.

The hospital community greatly appreciates the time and effort that Commissioner Nicolay, the task force members, and the MHCC staff devoted to crafting these recommendations. The task force demonstrated a high level of commitment and dedication in working through some very tough, but critical issues. They requested additional time so that the issues could be thoroughly discussed and debated, and they are to be commended.

The recommendations address many of the concerns that MHA and others expressed at the June 7 public hearing. We believe the goals of streamlining, facilitating, and enhancing the CON process are largely achieved with these recommendations and should result in a more meaningful and efficient CON program.

MHA supports the MHCC CON Task Force recommendations as follows:

Scope of CON Coverage

- Increase the current capital expenditure review threshold from $1.65 to $10 million for hospitals and $5 million for other health care facilities.

  The threshold has not been raised since the mid-1980s, while the cost and need for construction have significantly increased. Raising the threshold relieves the MHCC staff of the administrative burden of reviewing minor projects and allows hospitals to pursue them more quickly.

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Elkridge, Maryland
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FAX 410-379-8239

- more -

- Expand the existing business office equipment exemption to include health information technology/medical information systems.

  Enhancements in health information technology/medical information systems improve the efficiency, effectiveness, and quality of care at a hospital, but do not necessarily relate specifically to the development of a new service. They should be considered as business or office equipment and, therefore, legally exempted from the CON process.

- Develop a streamlined ("Fast Track") CON review process for hospital renovation and new construction projects with no new services or beds that do not require a partial rate review; issue a staff report within 60 days and commission decision within 90 days, or the project is deemed approved.

- Revise Determination of Noncoverage requirements for hospitals taking the "pledge" not to increase rates to deem the request approved if not acted upon by the commission within 60 days.

  The "Fast Track" process and revision of the Determination of Noncoverage requirements for less complex applications, requiring less anaylsis and review, will reduce the time required to process a CON, as well as reduce the burden on both the applicants and the MHCC staff.

- Remove the requirement for public informational hearings for hospital closures in jurisdictions with more than two hospitals; remove the requirement to obtain an exemption from CON review for hospital closures in jurisdictions with fewer than three hospitals.

  The actions taken to close a hospital are part of a lengthy and deliberative process. Disposition of services and facilities, as well as alternate medical service plans for the community are addressed as part of this process. Additional hearings and reviews unnecessarily extend the closure process and do not facilitate the closure efforts.

State Health Plan

- Conduct comprehensive review and update of the State Health Plan:

  – Add policies to the Acute Inpatient Services chapter of the State Health Plan (SHP) addressing shell space. The policies should permit the development of shell space, provided that the hospital does not seek a rate adjustment while the space is unused. CON approval would be required when and if the space is fitted out for a project subject to CON.

Shell space gives hospitals a more cost-efficient alternative for new construction or an expansion project and supports the more efficient use of health care dollars.

– Prioritize the update of the Acute Inpatient Services and Ambulatory Surgical Services chapters of the State Health Plan.

Given the large number of acute care CON applications that have or will be filed, it is essential that the acute care section of the SHP be given priority for update. It has been a number of years since any significant revision to this chapter has taken place, and as noted below, applicable standards need to be current with hospital practice.

– For all chapters of the State Health Plan, streamline documentation requirements; eliminate obsolete and duplicative standards; and, identify those types of projects eligible for review based on a limited set of standards.

Many of the current system standards are obsolete and/or redundant and should be repealed. Others, such as The American Institute of Architects (AIA) guidelines for square footage, should be adopted.

Certificate of Need Review Process

- Modify the completeness review and project review process by requiring two conferences as a standard feature of the review of any CON application: (1) an Application Review Conference (ARC) between staff and the applicant, which can be a face-to-face or telephone conference, scheduled within the approximate time frame at which the staff currently issues completeness questions; and, (2) a Project Status Conference (PSC) between any appointed Reviewer, the staff, the applicant, and any interested parties, in person or by telephone.

- Modify the review process by allowing for changes in a project addressed in the PSC, that bring it in closer conformance with the State Health Plan, based on staff or the Reviewer's analysis, without penalizing such changes by adding more process or time to the review.

- Develop an automated CON application form; require PDF of CON application document; develop standard form for filing requests for Determinations of Non-Coverage; provide Web site access to CON filings.

The above changes should serve to expedite the CON process by allowing discovery and discussion of issues early in the review process, allowing certain changes in an application without the need to "re-docket" and automate the filing process. Both providers and MHCC staff should benefit from these changes.

Issues for Further Discussion

From MHA's perspective, the task force made considerable progress in developing recommendations to improve the CON process, as well as refinements to the State Health Plan. However, two issues need further discussion.

First, due to a lack of time to adequately address the issue, ***the task force recommended that the commission study alternatives to eliminate the inconsistency between the 140 percent rule for establishing licensed acute care bed capacity and the State Health Plan occupancy assumptions***. We believe a technical advisory group should be formed by the commission with representatives from MHA, major payors, and other interested organizations.

Second, ***MHA requests that the MHCC eliminate the batch review cycles as quickly as possible***. This process requires the docketing of specific facilities and services during certain months. Although implemented as a way to manage the submission of CON applications, it is actually causing delays in the submission of some projects, resulting in higher project costs.

Again, we strongly encourage your support and favorable action on the MHCC CON Task Force recommendations.

Sincerely,

THE MARYLAND HOSPITAL ASSOCIATION

Cal Pierson

Calvin M. Pierson
President

cc: Robert Nicolay, Chairman, MHCC CON Task Force

December 8, 2005

Mr. Stephen Salamon
Commissioner
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore MD 21215

Dear Mr. Salamon:
On behalf of the Maryland National Capital Homecare Association, I would like to thank you for the opportunity you gave us to participate in the process and for your consideration for our views. The members of the Maryland National Capital Homecare Association have had the opportunity to read the recommendation of the Certificate of Need Task Force Report dated November 22, 2005.

While we support most of the recommendations of the Task Force, MNCHA polled their members and an overwhelming majority expressed their opposition to the repeal of the Certificate of Need for Home Health Agencies. They have appealed to the board of MNCHA to present their position in a united voice.

Without exception, we believe that the guiding principles created by the task force are particularly valuable. However, we believe these very principles only point out the importance of the retention of the CON for Home Health Agencies. The patients are currently receiving quality care and have not been subject to any limitations. Therefore, according to your own criteria, The CON is Working! There are no arguments or statistical data in this report to suggest that there are needs not being met.

The objections, as you can imagine, are diverse and plentiful but we would like to summarize those that were most frequently cited.

1. **QUALITY OF CARE**- Without the certificate of need there will be uncontrolled proliferation of home health services that would overwhelm the state's ability to adequately monitor and control the quality of home health services. The low capital required to establish home health services often invites marginal providers without the financial resources to sustain our current high quality services.
2. **ACCESS TO CARE**-Eliminating the CON requirement opens the door to provide services only to Medicare and/or commercial patients, which will negatively impact the provision of quality services to our most vulnerable population including Medicaid recipients. Greater numbers of home health agencies does not improve the access to care for the urban and rural areas. To the contrary, the market forces would increase competition in the most populated areas pulling providers from the already underserved locations.

3. **DELIVERY OF CARE** - Unlike the typical open market businesses, the homecare industry cannot manufacture its' "product". There is a severe shortage of therapists, RN's and other providers. Increasing the agencies that can employ them won't improve the quality, cost or delivery of the service. It can only do the exact opposite because as the competition causes the wages for this limited group of providers to increase, decreased revenues will force cuts in quality and service.
4. **NEEDS BASED THEORY** - The alternative recommendation to "eliminate from the State Health Plan the Home Health Agency need methodology and/or projection" is difficult to understand. Need should be a defining criteria. In the absence of any evidence that needs are not being met under the current system, a better approach may be to modify the requirements of participation to include Medicaid participation and charity care.
5. **SYSTEMS IMPACT** - The Office of Health Care Quality, which would be responsible for licensing and surveying, is already facing extreme budgetary restrictions that would be severely exacerbated by an influx of new agencies into this system. Surveys are critical for identifying the issues that impact the quality of care, particularly for newly formed agencies. Until a plan and budget is in place for initial surveys and sanctions it would be irresponsible to consider de-regulation. The argument that Medicare regulations provide strict controls is irrelevant to the need of enforcement and oversight at the state level.

We believe that quality of care and protection of our most vulnerable population are the most important considerations in this process. MNCHA representatives would be happy to work with you to eliminate obsolete and duplicative CON review standards and craft any modification to the current process that would allow the highest quality of care and improved access for the patients we service while protecting the integrity of our profession.

Sincerely,

Patti Maguire
Co-Chair, Government Affairs Committee
Maryland National Capital Homecare Association

Michael C. Rogers
Executive Vice President
Corporate Services

MedStar Health

December 9, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

On behalf MedStar Health, I am pleased to submit comments to the Maryland Health Care Commission (MHCC) on the Final Report of the Certificate of Need Task Force.

We appreciated the opportunity to participate in the process and for the consideration that the Task Force gave to our testimony and to the views of all the participants in the process. We recognized the challenge the Task Force faced as they considered the divergent views of the interested parties. On behalf of MedStar Health, we commend the work of the Chair and the members for their efforts on behalf of the citizens of Maryland.

While we support most of the recommendations of the Task Force, I want to particularly highlight our support for the proposed changes in the capital expenditure review threshold; the proposals to review, update and eliminate duplicative provisions of the State Health Plan; proposed changes in the review process to include two conferences to expedite the completeness reviews; the proposed "Fast Tack" process for certain projects, as well as recommendations regarding shell space.

We take exception to the Task Force's recommendation regarding the recommendation to eliminate Home Health as a covered service. Also, we suggest further study and/or recommendations relating to need methodologies and de-certification of certificate of need approved programs. These issues are discussed below.

Coverage of Home Health Services

We believed based on the guiding principles articulated for the CON program by the Task Force (page 2 of the report) home health services meet the criteria for remaining a covered service and we urge you to reject the recommendation to remove home health services as a CON covered service based on the following the proposed guiding principles:

5565 Sterrett Place - 5th Floor, Columbia, Maryland 21044
phone: 410 772 6820 • *fax:* 410 715 3905 • *e mail:* michael.c.rogers@medstar.net

Principle:

Home health services should remain under certificate of need regulations because it promotes the quality and safety of home health services provided in Maryland.

The certificate of need program in Maryland promotes quality and safety because it establishes higher threshold standards for entry and a rigorous public review of an applicant's capabilities and financial resources to establish new home health programs. Licensure and reimbursement programs generally set minimum threshold standards. Maryland, which requires certificate of need for home health, has more than 40% of its home health agencies accredited by one or more of the leading national accrediting bodies as compared with Florida, a non certificate of need state which has only 17% of its home health programs meeting higher voluntary accrediting standards. Maryland currently has 48 Medicare certified agencies. Florida, which abolished its CON in 2000, has approximately 330 skilled home health agencies then; today there are 689 agencies in Florida.

Providing high standards to entry is particularly important as testimony before the Task Force acknowledged the lack of adequate resources in the Office of Health Care Quality for enforcing licensure standards. Eliminating certificate of need and allowing uncontrolled proliferation of home health services would only overwhelm the State's ability to adequately monitor and control the quality of home health services. The small amount of capital required to establish home health services often invites marginal providers without adequate financial resources to sustain quality services. Certificate of need oversight and high threshold standards ensures approved agencies can provide high quality services.

Principle:

Home Health Services should remain under the certificate of need program because it promotes improved access to home health services by addressing the needs of the underserved populations and racial disparities which presently exist.

The competitive certificate of need process incentivizes potential applicants proposing new services through criteria and standards that give preferences to applicants proposing to developed services for populations with special needs that otherwise would not be developed purely based on market competition. The fastest growing sector of the home care market is among "for-profit" agencies. Having greater numbers of home health agencies do not alone mean improved access to care particularly in urban and rural areas. The use of access criteria and standards promotes the development of programs and services that serve areas and populations, which left strictly to market forces, would not be adequately served.

Principle:

Home health services should remain under the certificate of need program because the competition through market forces will only result in significantly higher costs.

The proliferation of home care agencies will increase the competition for a shrinking pool of registered nurses. According to the National Center for Health Workforce Analysis in 2005, Maryland had 8% fewer full time registered nurses than are needed across all health care providers. By 2010, there will be 18% fewer full-time register nurses and by 2015, it is projected there will be 25% fewer nurses.

To attract nurses, health care organizations are offering incentives such as signing bonuses, and bidding up salaries, which has resulted in nurses changing jobs every six to 12 months for bonuses and salary incentives. The high turnover of nurses in home health is not only a cost issue; it is a quality issue.

Recognizing that the Task Force recommendation on home health was by plurality and not a consensus, the Task Force alternatively voted that should the Commission reject its recommendation to eliminate home health as a covered service, then it should revise the State Health Plan to eliminate the home health need methodology and/or projection and focus home health reviews on other standards. We adamantly take issue with this approach. We believe the appropriate legal process for eliminating home health services, as a covered service, is to seek and obtain a legislative change. To do otherwise is simply a procedural maneuver to by pass the legislature. The legislature established home health as a covered service; the legislature should act to eliminate this service from CON.

Elimination of Objective Need Methodologies/Projections

The suggestion of the Task Force to alternatively eliminate the need methodology for home health services as a means around seeking legislative action to outright eliminate home health as a covered services raises an important policy issue that we believe the Commission should explicitly confront. In MedStar Health's comments to the Task Force dated, June 9, 2005, we articulated principles for reforming Maryland Certificate of Need Program including the importance of "OBJECTIVITY". We expressed the view that the objective population-based need methodologies and evidenced-based assumptions should be the central core for certificate of need policies and certificate of need determinations. We noted there is a movement to relegate population-based need projections to a minor role and rely on more subjective "community-benefits standards" in determinations of need. For instance, the Commission has abandoned the need projections for obstetric services and open-heart surgery and the Task Force is suggesting eliminating the need methodology for home health. Abandoning objective population-based need methodologies in favor of more subjective need determination criteria undermines the certificate of need process and gives the impression the certificate of need process is becoming more political rather than a fact-based process. While we understand and support the statutory mandate

that the Commission balance access quality and cost, it is important that the public and potential applicants understand through objective and transparent access, quality and cost criteria and standards how the Commission derives its decisions. Otherwise the integrity of the certificate of need process maybe undermined.

De-Certification of Approved Certificate of Need

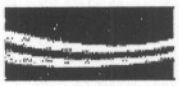
Absent from the Task Force discussion was a discussion on the authority of the Commission to de-certify existing certificate of need holders when they fail to achieve minimum volume standards, etc. In the deliberations on establishing new open-heart surgery programs, the Commission has opted to add new programs in planning regions where there are under-performing programs citing the lack of authority to close existing programs that fail to meet and sustain minimum performance standards. It seems to us, this issue deserves discussion by the Commission as apart of the reforms being contemplated by the Commission.

Finally, we wish to thank the Commission for this opportunity to comment on the CON Task Force report and we look forward to actively participating as a partner with the Commission to enhance the certificate of need program to ensure access to quality and cost effective health care for all Marylanders.

Sincerely,

Michael C. Rogers
Executive Vice President
Corporate Services

Cc: Kenneth A. Samet
Christine M. Swearingen
Clarence Brewton, Jr.
Maryland Hospital Presidents
Maryland Hospital Planners



MedStar Health
Visiting Nurse Association

Bringing Care and Independence Home

December 8, 2005

Commissioner Robert E. Nicolay, CPA, Chairman
Certificate of Need Task Force
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Nicolay:

I write again on behalf of MedStar Visiting Nurse Association (VNA), an affiliate of MedStar Health. VNA is the largest home health provider serving the Baltimore-Washington, D.C. and Virginia regions, providing over 250,000 home health visits annually. We employee 715 people, more than 95% of whom live in Maryland.

The Task Force, at its July and November meetings voted to recommend to the Commission that home health services be eliminate as a covered service under the certificate of need program. We strongly encourage you to revisit this recommendation. To this end, we reiterate our original comments on why we support the continuation of certificate of need regulations for home health services and particularly why the continued regulation of home health services is consistent with guiding principles for the certificate of need program subsequently developed by the Task Force.

Principle

Home health services should remain under certificate of need regulations because it promotes the quality and safety of home health services provided in Maryland

The certificate of need program in Maryland promotes quality and safety because it establishes higher threshold standards for entry and a rigorous public review of applicant's capabilities and financial resources to establish new home health programs. Licensure and reimbursement programs generally set minimum threshold standards. Maryland, which require certificate of need for home health, has more than 40% of its home health agencies accredited by one or more of the leading national accrediting bodies as compared with Florida, a non certificate of need state which has only 17% of its home health programs meeting higher voluntary accrediting standards. Maryland

currently has 48 Medicare certified agencies. Florida, which abolished its CON in 2000, had approximately 330 skilled home health agencies then; today there are 689 agencies.

Providing high standards to entry is particularly important as testimony before the Task Force acknowledged the resources of the Office of Health Care Quality, charged with enforcing licensure standards is seriously overburden. Eliminating certificate of need and allowing uncontrolled proliferation of home health services would only overwhelm the state's ability to adequately monitor and control the quality of home health services. The low capital required to establish home health services often invites marginal providers without adequate financial resources to sustain quality services. Certificate of need oversight and high threshold standards ensures approved agencies can provide high quality services.

Principle

Home Health Services should remain under the certificate of need program because it promotes improved access to home health services by addressing the needs of the underserved populations and racial disparities which presently exist.

The competitive certificate of need process incentivizes potential applicants proposing new services through criteria and standards that give preferences to applicants proposing to developed services for populations with special needs that otherwise would not be developed purely based on market competition. The fastest growing sector of the home care market is among for-profit agencies. Having greater numbers of home health agencies does not alone mean improved access to care particularly in urban and rural areas. The use of access criteria and standards promotes the development of programs and services that serve areas and populations, which left strictly to market forces, would not be adequately served.

Principle

Home health services should remain under the certificate of need program because the competition through market forces will only result in significantly higher costs.

The proliferation of home care agencies will increase the competition for a shrinking pool of registered nurses. According to the National Center for Health Workforce Analysis in 2005, Maryland had 8% fewer full time registered nurses than are need across all health care providers. By 2010, there will be 18% fewer full-time register nurses and by 2015, it is projected there will be 25% fewer nurses.

To attract nurses, health care organizations are offering incentives such as signing bonuses, and bidding up salaries, which has resulted in nurses changing jobs every six to 12 months for bonuses and salary incentives. The high turnover of nurses in home health is not only a cost issue; it's a quality issue.

Based on the adopted principles for the certificate of need program, home health services should certainly remain a covered service and we would urge you to reconsider your prior vote and maintain home health services under the state's certificate of need program.

Thank you for considering these comments.

Sincerely,

Steven A. Johnson
President

cc: Michael C. Rogers
Kenneth A. Samet
Steve Cohen
Clarence Brewton, Jr.

Montgomery HOSPICE

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December 8, 2005

Pamela W. Barclay
Deputy Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Dear Ms. Barclay:

Montgomery Hospice appreciates the opportunity to provide its views on the recommendations and report of the MHCC's Certificate of Need Task Force. Montgomery Hospice urges the Commission to adopt without modification the Task Force's recommendation to take no action to alter the current CON process for hospice.

Montgomery Hospice feels strongly that the current CON process assures access to hospice services, while facilitating the quality of that service. Doing away with CON and allowing hospices to enter a market where the demand is already met will not improve access to quality hospice care. Because of the economies of providing an interdisciplinary 24-hour medical service, for which there is one immutable all-inclusive daily payment, unnecessary competition creates smaller hospices, which are weaker hospices.

Montgomery Hospice also supports the elimination of health disparities. While hospice care began as a service for white patients, Montgomery Hospice has worked hard to branch out and serve our diverse community. To do this, Montgomery Hospice has channeled funds into an ethnic outreach program. This could not have happened without the CON process that restricts needless competition. Without CON, management would have been forced to divert this outreach investment, and use the funds to provide basic cash flow and marketing needs of a shrinking organization.

Montgomery Hospice appreciates the efforts of the Task Force and applauds its conclusion to retain CON for hospice. Montgomery Hospice urges the Maryland Health Care Commission to adopt this recommendation without change, and to retain the existing CON regulation for hospice care.

Sincerely,

Ann Mitchell

Ann Mitchell MPH
President & CEO

Shore Home Care

29515 Canvasback Dr., Suite C
Easton, Maryland 21601

410-820-6052

December 8, 2005

Ms. Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Reference: Written comments regarding
recommendations of the CON Task Force-
Comments pertaining to Home Health Services.

Dear Ms. Barclay:

I would first like to express appreciation for the work and commitment from the members of the CON Task Force under the direction of Commissioner Robert Nicolay.

I wish to provide comment pertaining to the recommendations concerning Home Health services. In general, I believe before Home Health services are deregulated there should be greater exploration of the impact on quality of care, access to care, delivery of care and the systems impact between State agencies. A second issue of concern is the recognition that certain types of clinical diagnoses require more visits and care resources and therefore are not as profitable or perhaps are a financial drain to a home health agency. Therefore non-acceptance of certain types of patients because of financial reasons is also a concern that needs to be addressed. Further discussion on these issues follows.

1. Provision of Charity Care

Under the current CON process, there are conditions and monitoring mechanisms in place to encourage the access of home health services to those with limited or no financial resources. A State system without CON regulations to uphold this responsibility onto Home Health providers may decrease the accessibility of Home Health services to patients with limited means. It will definitely cause a displacement of more patients with limited assets from for-profit Home Health agencies to non-profit Home Health agencies. Without such requirements in place, hospitals may find it more difficult to discharge patients with limited resources, thus increasing the length of stay of patients in a more costly hospital setting. The Medicare/ Medicaid State licensure inspection process does not address this issue of concern.

2. Financial Selection of Home Health Patients

Several years ago, Medicare transitioned its Home Health payment system from a "payment per visit" system to the current Medicare Prospective Payment System whereby Home Health agencies are paid a case rate. This system is good from the perspective that it prevents Home Health agencies from "financially milking" CMS. However, Home Health agencies that are more "financially driven" versus "mission driven" will select patient types that require less medical resources and will be more reluctant to accept patients that require extensive medical resources without additional reimbursement. I believe there is nothing wrong with competition, but the unchecked proliferation of for-profit home health agencies may

negatively impact the mission and patient acceptance procedures of all Home Health agencies within local markets. As a non-profit health care system with a Home Health agency, we are starting to see this phenomenon.

3. Delivery of Care

Health care facilities across the state continue to struggle with staffing shortages for nursing and therapist. Increasing the number of agencies operating within the state will not remedy the supply of staff. This will cause increased competition amongst agencies for the same staffing population which will not positively impact quality; cost or delivery of services. It will drive up costs while limiting access to services as staff move from one agency to another.

Because of the issues above, I would like to recommend that Home Health services not be deregulated at this time. Instead, I would suggest a separate Task Force be developed to include representation from the Maryland Health Care Commission, the Office of Health Care Quality, Home Health providers, hospital providers, and physicians/Health Officers to address the proper safeguards necessary to be implemented prior to the deregulation of Home Health services.

Thank you for the opportunity to comment on this issue.

Sincerely,

Rita Holley
Director
Care Health Services, Inc.

CC: Mr. Robert E. Nicolay, C.P.A., Chairman, CON Task Force
Mr. Stephen J. Salamon, Chairman, Maryland Health Care Commission
Dr. Rex W. Cowdry, Executive Director, Maryland Health Care Commission

Colleen Lates

From: Pam Barclay
Sent: Thursday, December 08, 2005 3:54 PM
To: Colleen Lates
Subject: FW: CON

From: Marie Harkowa [mailto:mharkowa@shorehealth.org]
Sent: Thursday, December 08, 2005 3:52 PM
To: pbarclay@mhcc.state.md.us
Subject: CON

Shore Home Care Hospice recommends that the CON for hospice remains unchanged

Colleen Lates

From: Pam Barclay
Sent: Thursday, December 08, 2005 1:32 PM
To: Colleen Lates
Subject: FW: Hospice CON

-----Original Message-----
From: Robin Dowell [mailto:RDOWELL@STAGNES.ORG]
Sent: Thursday, December 08, 2005 1:04 PM
To: pbarclay@mhcc.state.md.us
Subject: Hospice CON

Pam -
This will probably be the shortest commentary you'll ever receive, but I simply want St. Agnes Hospice to be counted among those that firmly support the CON Task Force's recommendation to retain the CON for Hospice.

Robin Dowell, Director
St. Agnes Hospice
rdowell@stagnes.org
410 368 2825

St. Agnes HOSPITAL

December 9, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215
Via FAX: 410.358.1236

Dear Chairman Salamon:

St. Agnes Hospital greatly appreciates the time and effort that Commissioner Nicolay, the task force members, and the MHCC staff dedicated to the review of the CON process in and developing their recommendations. The recommendations address many of St. Agnes' concerns with the existing CON process. We believe the goals of streamlining, facilitating, and enhancing the CON process are largely achieved with these recommendations and should result in a more meaningful and efficient CON program.

Further, St. Agnes is in full support of the comments submitted by Maryland Hospital Association on behalf on its 69 members. In particular, St. Agnes strongly urges the Maryland Health Care Commission eliminate the batch review cycles. The batch process causes significant delays for hospitals implementing capital projects in a period of highly volatile and escalating construction costs resulting higher overall project costs.

Again, we strongly encourage your support and favorable action on the MHCC CON Task Force recommendations.

Sincerely,

F. Joseph Meyers
Director, Strategic Planning

St. Mary's Hospital

2005 DEC 12 PM 3:40

December 8, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Chairman Salamon:

On behalf of St. Mary's Hospital, I am writing in strong support of the recommendations of the Maryland Health Care Commission's Certificate of Need (CON) Task Force, as noted below, and urging favorable action on the recommendations by the commission.

The hospital community greatly appreciates the time and effort that Commissioner Nicolay, the task force members, and the MHCC staff devoted to crafting these recommendations. The task force demonstrated a high level of commitment and dedication in working through some very tough, but critical issues. They requested additional time so that the issues could be thoroughly discussed and debated, and they are to be commended.

The recommendations address many of the concerns that were expressed at the June 7 public hearing. We believe the goals of streamlining, facilitating, and enhancing the CON process are largely achieved with these recommendations and should result in a more meaningful and efficient CON program.

St. Mary's Hospital supports the MHCC CON Task Force recommendations as follows:

Scope of CON Coverage

- Increase the current capital expenditure review threshold from $1.65 to $10 million for hospitals and $5 million for other health care facilities.

  The threshold has not been raised since the mid-1980s, while the cost and need for construction have significantly increased. Raising the threshold relieves the MHCC staff of the administrative burden of reviewing minor projects and allows hospitals to pursue them more quickly.

- more -

- Expand the existing business office equipment exemption to include health information technology/medical information systems.

  Enhancements in health information technology/medical information systems improve the efficiency, effectiveness, and quality of care at a hospital, but do not necessarily relate specifically to the development of a new service. They should be considered as business or office equipment and, therefore, legally exempted from the CON process.

- Develop a streamlined ("Fast Track") CON review process for hospital renovation and new construction projects with no new services or beds that do not require a partial rate review; issue a staff report within 60 days and commission decision within 90 days, or the project is deemed approved.

- Revise Determination of Noncoverage requirements for hospitals taking the "pledge" not to increase rates to deem the request approved if not acted upon by the commission within 60 days.

  The "Fast Track" process and revision of the Determination of Noncoverage requirements for less complex applications, requiring less anaylsis and review, will reduce the time required to process a CON, as well as reduce the burden on both the applicants and the MHCC staff.

- Remove the requirement for public informational hearings for hospital closures in jurisdictions with more than two hospitals; remove the requirement to obtain an exemption from CON review for hospital closures in jurisdictions with fewer than three hospitals.

  The actions taken to close a hospital are part of a lengthy and deliberative process. Disposition of services and facilities, as well as alternate medical service plans for the community are addressed as part of this process. Additional hearings and reviews unnecessarily extend the closure process and do not facilitate the closure efforts.

On behalf of St. Mary's Hospital, I do want to express strong support for continuation of CON regulation for both home health care and hospice services. I am therefore opposed to the Task Force's recommendation to eliminate CON for home health care. Both home health and hospice services are critical to the continuum of care in Maryland. In order to remain viable, however, these providers must be assured certain volumes. This is particularly critical in the rural areas of the state such as St. Mary's County.

State Health Plan

- Conduct comprehensive review and update of the State Health Plan:

  - Add policies to the Acute Inpatient Services chapter of the State Health Plan (SHP) addressing shell space. The policies should permit the development of shell space, provided that the hospital does not seek a rate adjustment while the space is unused. CON approval would be required when and if the space is fitted out for a project subject to CON.

    Shell space gives hospitals a more cost-efficient alternative for new construction or an expansion project and supports the more efficient use of health care dollars.

  - Prioritize the update of the Acute Inpatient Services and Ambulatory Surgical Services chapters of the State Health Plan.

    Given the large number of acute care CON applications that have or will be filed, it is essential that the acute care section of the SHP be given priority for update. It has been a number of years since any significant revision to this chapter has taken place, and as noted below, applicable standards need to be current with hospital practice.

  - For all chapters of the State Health Plan, streamline documentation requirements; eliminate obsolete and duplicative standards; and, identify those types of projects eligible for review based on a limited set of standards.

    Many of the current system standards are obsolete and/or redundant and should be repealed. Others, such as The American Institute of Architects (AIA) guidelines for square footage, should be adopted.

Certificate of Need Review Process

- Modify the completeness review and project review process by requiring two conferences as a standard feature of the review of any CON application: (1) an Application Review Conference (ARC) between staff and the applicant, which can be a face-to-face or telephone conference, scheduled within the approximate time frame at which the staff currently issues completeness questions; and, (2) a Project Status Conference (PSC) between any appointed Reviewer, the staff, the applicant, and any interested parties, in person or by telephone.

- Modify the review process by allowing for changes in a project addressed in the PSC, that bring it in closer conformance with the State Health Plan, based on staff or the Reviewer's analysis, without penalizing such changes by adding more process or time to the review.

- Develop an automated CON application form; require PDF of CON application document; develop standard form for filing requests for Determinations of Non-Coverage; provide Web site access to CON filings.

The above changes should serve to expedite the CON process by allowing discovery and discussion of issues early in the review process, allowing certain changes in an application without the need to "re-docket" and automate the filing process. Both providers and MHCC staff should benefit from these changes.

Issues for Further Discussion

From our perspective, the task force made considerable progress in developing recommendations to improve the CON process, as well as refinements to the State Health Plan. However, two issues need further discussion.

First, due to a lack of time to adequately address the issue, ***the task force recommended that the commission study alternatives to eliminate the inconsistency between the 140 percent rule for establishing licensed acute care bed capacity and the State Health Plan occupancy assumptions***. We believe a technical advisory group should be formed by the commission with representatives from MHA, major payors, and other interested organizations.

Second, ***we request that the MHCC eliminate the batch review cycles as quickly as possible***. This process requires the docketing of specific facilities and services during certain months. Although implemented as a way to manage the submission of CON applications, it is actually causing delays in the submission of some projects, resulting in higher project costs.

Again, we strongly encourage your support and favorable action on the MHCC CON Task Force recommendations.

Kindest regards,

Christine R. Wray
President and CEO

cc: Robert Nicolay, Chairman, MHCC CON Task Force

SUBURBAN HOSPITAL
Healthcare System

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www.suburbanhospital.org

2005 DEC 12 PM 3:35

December 8, 2005

Stephen J. Salamon
Chairman
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Robert E. Nicolay, C.P.A.
Chairman, CON Task Force
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: CON Task Force Recommendations

Gentlemen:

We have reviewed the CON Task Force recommendations and urge the Maryland Health Care Commission to adopt them, except for the suggestion that CON review schedules be retained. While intended to make staff's workload more predictable, the review schedule process will force many hospitals to file CON applications sooner than anticipated, based on the hospitals' previously established implementation schedules for large construction and renovation projects. The current review schedule is particularly problematic since reviews are now scheduled on a "once a year" basis rather than biannually as was done before.

In terms of the Task Force proposal, we are particularly pleased that the Task Force recommended: (1) an increase in the CON threshold for hospitals to $10 million; (2) that clinical information systems be exempt from CON review as business and office equipment; and (3) that hospitals be allowed to build shell space so long as a rate increase is not sought at the time of construction. We also believe that the Task Force's procedural recommendations will greatly improve the CON review process and related activities.

Thank you for affording Suburban Hospital an opportunity to comment on the Task Force recommendations.

Very truly yours,

Brian A. Gragnolati

Brian A. Gragnolati
President and Chief Executive Officer

cc: Cal Pierson, President, Maryland Hospital Association
Rex W. Cowdry, M.D.
Jack C. Tranter, Esq.

VNA Home Health of Maryland

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December 7, 2005

Ms. Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

RE: Certificate of Need Task Force Report

Dear Ms. Barclay:

Please let me take a moment to introduce myself. My name is Barry M. Ray, owner of the VNA of Maryland, LLC. which I purchased as of December 1, 2003. The VNA has just celebrated its 110th year of homecare service to the Maryland community, and I am proud to be associated with a company that has such a long and storied history of providing home care to the residents of this State. I am involved in various aspects of the delivery of related health care services in Illinois, including a home health agency, and have explored the possibility of opening in various surrounding states in the Midwest, as well as the east coast. Let me first share with you that I believe your office has done an exceptional job in over sighting the quality of care for home care agencies, as well as setting the highest standards for provider proficiency. I have a great deal of personal pride in all the companies that I own and manage, but frankly, the VNA of Maryland is the most professionally rewarding. This is a product of not only the exceptional staff that we have been able to attract in an ever challenging labor market, specifically addressing the severe shortages in Nursing and all therapy disciplines, but to a very strong commitment on behalf of management to provide extensive resources to the integration of cutting edge information technology, as part of our ever evolving mission statement. These exciting strides in the improvement of the delivery of home care services can only be accomplished when we work in harmony with the regulatory agencies to plot a course of action that best serves the needs of our patients. In my view, the ONLY criteria that should be used is irrefutable statistical data that would determine both quality of care, and access to care of the patients of this State. There is NO ROOM for any other criteria, unless those criteria directly impact the quality and access of homecare to our patients.

Therefore, it is with utter amazement and a deep sense of disappointment that I read the recommendation of the Certificate of Need Task Force Report dated November 22, 2005, as it relates to Home Health Agencies. What is even more mystifying is the fact that the "Principles to Guide the CON Program" which appears on page 2 of the report, takes

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painful care to enumerate what the Certificate of Need Program should accomplish, as well as in which situations the CON should apply; without exception all seven of these criteria would appear to DEMAND that the CON requirement for Home Health Agencies be continued. There is no argument presented anywhere in this report, which would provide ANY statistical data to suggest that the resident's of this State are NOT currently receiving quality care, or have any limitations to access of services. These are the criteria of the report, and they have not been followed. The impact of deregulation will be to exacerbate the already critical nursing and therapist shortage, driving up costs, and thereby placing significant operational pressure that will limit the ability of agencies to invest in technology and quality control programs. Additionally, as the labor pool is diluted, the access to care becomes more limited, because agencies do not have the resources to devote to areas that are even remotely beyond their immediate service area.

Many reasons may be suggested for this apparent double standard, the most obvious being the Industries ineffective explanation of the adverse effects of deregulation of the CON requirement for Home Health Agencies. From our perspective, it might have been helpful if at least one member of the Task Force were either an owner or operator of a Certified Home Health Agency, this way our specific issues might have had more balanced representation.

Even more troubling is the apparent disregard of the impact of deregulation on the additional cost to be incurred by the State for providing the surveyors that will be necessary to maintain the standards of OHCQ, who are charged with enforcing licensure standards. The argument that Medicare regulations provide strict controls on the operation and utilization of Home Health Agencies is irrelevant to the need of enforcement and oversight on the local level. Who of us in Health Care would posit that Federal regulations would adequately protect the interests of the residents of the State of Maryland?

Finally, the most baffling of all, is the recommendation that in the alternative "eliminate from the State Health Plan the Home Health Agency need methodology and or projection". It is hard to understand the rationale for this approach. I have no problem supporting as an additional requirement of participation in the State of Maryland, a standard that INCLUDES charity care and Medicaid participation. This is good social policy. However, this in no way can be allowed to replace "need" as the defining criteria. At best it should only augment that requirement.

VNA OF MARYLAND
Home Care

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In closing, I respectfully request that the commission reconsider their recommendation, and work with the Industry in crafting a modification to the current process which would not only protect the integrity of our industry, allow for the highest quality of care and improved access for the patients we service, but under conditions that are quantifiable and justifiable, award CON's to any locale that is either under serviced or the quality of the service rendered is not up to the standards of the State of Maryland.

Thanking you in advance for your consideration.

I remain,

Yours very truly,

Barry M. Ray

Raymond A. Grahe
Vice President Financial Services
Washington County Health System
251 East Antietam Street
Hagerstown, MD 21740
Phone: 301-790-8102
Fax: 301-790-9480
E-mail: ragrahe@wchsys.org

WASHINGTON COUNTY
HEALTH SYSTEM

2005 DEC 12 PM 3:36

December 8, 2005

Pamela W. Barclay
Deputy Director, Health Resources
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, Maryland 21215

Dear Ms. Barclay:

Washington County Health System supports and applauds the recommendation of the Task Force to revise the Certificate of Need Regulations with the following exceptions:

We think that Home Health should continue to be CON-regulated in Maryland. Portions of West Virginia are included in our service area but the State of West Virginia will not allow us to follow-up patient care within that State without CON approval, therefore Maryland should continue with the same rules and regulations concerning home health services from outside the state of Maryland, or until both states move to deregulate home health services from CON.

We felt that the policy of continued CON regulation of elective angioplasty was not addressed adequately within these recommendations. We believe that Dr Aversano's proposal for expansion of the provision of elective angioplasty without on-site open heart surgery back-up is appropriate particularly for low-risk patients residing in rural communities. We feel that the current situation which requires CON-approval for both OHS and elective angioplasty is detrimental to sole community providers around the state and their patients. Elective angioplasty is no longer subject to CON regulation in 19 different states and CON deregulation should be seriously considered in Maryland particularly for the sole community providers and the patients we serve.

Thank you for consideration of these comments.

Sincerely,

Raymond A Grahe
Vice President for Finance

C: James P. Hamill, President/CEO - WCHA
L. Lawrence, Executive Vice President - MHA

APPENDIX C

CON Project Review Activity by Capital Expenditure Level

Table C-1 profiles the last ten and a half years of CON project review activity and determinations on non-coverage (i.e., determinations that capital projects did not require CON approval) by size of capital expenditure. As this table indicates, only 11 of 203 projects reviewed (5.4%) required CON review solely because they involved capital expenditures that exceeded the expenditure threshold for review. Conversely, 117 hospital projects involving capital expenditures exceeding the review threshold were allowed to proceed without CON review because the sponsoring hospitals "took the pledge." Of the 11 projects, six were from acute care hospitals, one was from a psychiatric hospital, and four were from nursing homes. Four of the six acute care hospital projects were large capital renovation projects. The psychiatric hospital project was a facility replacement and renovation project. The four nursing home projects involved physical plant renovation and replacement.

Table C-1
Certificate of Need Projects and Determinations of Non-Coverage by Capital Expenditure: Maryland, 1995-2005 (January-May 2005)

Capital Expenditure (in millions)	All CON Projects	CON Projects-Capital Expenditure Threshold Only	All Determinations of Non-Coverage	Determinations of Non-Coverage-Hospital Pledge Projects
$45.0 and Over	8	2	4	4
$40.0-$44.9	1	0	0	0
$35.0-$39.9	0	0	0	0
$30.0-$34.9	3	1	3	3
$25.0-$29.9	3	3	1	1
$20.0-$24.9	2	0	1	1
$15.0-$19.9	0	0	5	4
$10.0-$14.9	8	2	10	10
$5.0-$9.9	12	2	26	25
$1.0-4.9	28	1	97	69
Under $1.0*	138	0	53	0
TOTAL	**203**	**11**	**200**	**117**

Source: Maryland Health Care Commission
(*includes a small number of projects with no cost or costs not stated)